

**REQUEST FOR SELECTION (RfS) DOCUMENT  
FOR SETTING UP OF GRID CONNECTED WIND-  
SOLAR HYBRID POWER PROJECTS FOR  
MINDSPACE BUSINESS PARKS PRIVATE  
LIMITED, GIGAPLEX ESTATE PRIVATE  
LIMITED, AND KRC INFRASTRUCTURE AND  
PROJECTS PRIVATE LIMITED**

**RfS No. MBPPL/Power/2024-25/M156**

**Dated: 10/09/2024**

**ISSUED BY**

**MINDSPACE BUSINESS PARKS PRIVATE LIMITED (on behalf of KRC DISCOMs),  
Plot No. C-30, Block 'G', Opp. SIDBI, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051,  
Maharashtra, India  
Tel.: 8010983950 Website: [www.krahejacorppower.com](http://www.krahejacorppower.com)**

**DISCLAIMER:**

1. Though adequate care has been taken while preparing the RfS document, the Bidders shall satisfy themselves that the document is complete in all respects. Intimation of any discrepancy shall be given to this office immediately. If no intimation is received from any Bidder on or before the date of pre-bid meeting (to be conducted online through MS Teams) as specified in bid information sheet, it shall be considered that the RfS document is complete in all respects and has been received by the Bidder.
2. Mindspace Business Parks Private Limited, Gigaplex Estate Private Limited, KRC Infrastructure and Projects Private Limited, jointly referred to as KRC DISCOMs, reserve the right to modify, amend or supplement this RfS document including the draft PPA.
3. While this RfS has been prepared in good faith, neither KRC DISCOMs nor their employees or advisors make any representation or warranty, express or implied, or accept any responsibility or liability, whatsoever, in respect of any statements or omissions herein, or the accuracy, completeness or reliability of information, and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability or completeness of this RfS, even if any loss or damage is caused by any act or omission on their part.

**Place: Mumbai**

**Date: 10.09.2024**

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### Bid Information Sheet

<b>Document Description</b>	RfS Document for setting up of Grid connected Wind-Solar Hybrid Power Projects
<b>RfS No.&amp; Date</b>	MBPPL/Power/2024-25/M156 & Date 10.09.2024
<b>Broad Scope</b>	Setting up of Wind-Solar Hybrid Power Projects of 60 MW with Green shoe option of ±5 MW in India on “Build Own Operate” basis and selling the Hybrid Power to the KRC DISCOMs
<b>Date of commencement of downloading of RfS document</b>	10.09.2024
<b>Pre-bid Conference / Clarification Meeting</b>	Online pre-bid meeting Date: 26.09.2024 (Link for the meeting will be displayed on DEEP portal and on K Raheja Corp Power website)
<b>Last date &amp; Time for</b> <b>a) Online Submission of Response to RfS and</b> <b>b) Submission of all documents as per Clause 3.25 A</b>	Date: 11.10.2024 & Time: 18:00 Hrs
<b>Online Bid Opening (Technical)</b>	As per the NIT on DEEP Portal and on K Raheja Corp Power website
<b>Financial Bid Opening</b>	Will be informed to eligible bidders
<b>Reverse Auction</b>	Will be informed to eligible bidders
<b>Date and Time for start of Reverse Auction</b>	To be intimated by email
<b>Cost of RfS Document (non- refundable)</b>	Rs. 29,500/- (inclusive of GST), to be submitted either through NEFT/RTGS transfer in the account of KRC DISCOMs, or in the form of DD/Pay Order, along with the response to RfS in favour of “Minspace Business Parks Pvt. Ltd.”, payable at Mumbai. or paid through online payment. Account details are as below: <b>Account Name:</b> Minspace Business Parks Pvt Ltd <b>Account No:</b> 914020025573251.

	<p><b>Bank:</b> Axis Bank Limited</p> <p><b>Branch:</b> Mangal Mahal, Turner Road, Bandra (West), Mumbai.</p> <p><b>IFSC:</b> UTIB0000028</p> <p>(Kindly provide UTR No. details to Mindspace Business Parks Pvt. Ltd. at the time of bid submission)</p>	
<b>Processing Fee (non-refundable)</b>	Rs. 2 Lakh + 18% GST to be submitted either through NEFT/RTGS transfer in the account of Mindspace Business Parks Pvt. Ltd., or in the form of DD/Pay Order along with the response to RfS in favour of “Mindspace Business Parks Pvt. Ltd.”, payable at Mumbai	
<b>EMD</b>	Earnest Money @ Rs. 10 Lakh/ MW is to be submitted in the form of Bank Guarantee along with the Response to RfS.	
<b>Name, Designation, Address and other details (For Submission of Response to RfS)</b>	Mr Vaibhav Gawas, Deputy General Manager - Power Mindspace Business Parks Pvt. Ltd, Power House, Near Gate No.2, SEZ, Mindspace, TTC Industrial area, MIDC, Opp. Airoli Railway Station, Airoli (E), Navi Mumbai-400708, Maharashtra, India	
<b>Details of persons to be contacted in case of any assistance required</b>	Mr. Vaibhav Gawas Email ID: vaibhav.gawas@kraheja.com Mob: +91 8010983950	
<b>Bank Details of Mindspace Business Parks Pvt. Ltd. for Bank Guarantee</b>	Name of Bank	Axis Bank Limited
	Branch Name	Mangal Mahal Turner Road, Bandra (West)
	Account Name	Mindspace Business Parks Pvt Ltd
	Account No	914020025573251
	IFSC Code	UTIB0000028
	TYPE of ACCOUNT	Current Account
	Address	Mangal Mahal Turner Road, Bandra (West), Mumbai.

### Indicative Timetable for the Bid Process

Sl. No.	Event	Elapsed Time from Zero Date
1	Date of issue of Request for Selection (RfS) document, Project specific draft Power Purchase Agreements	<b>10.09.2024 11:00 Hrs</b>
2	Submission of Pre-bid Query (if any)	<b>19.09.2024 18:00 Hrs</b>
3	Pre-Bid Conference/Clarification Meeting through Online Video Conference	<b>26.09.2024</b>
4	Issue of Clarifications on the Queries raised	<b>04.10.2024</b>
5	RFS Bids Submission	<b>11.10.2024 18:00 Hrs</b>
6	Evaluation of Technical Bids	<b>08.11.2024</b>
7	Evaluation of Financial Bids and conduction of e-Reverse Auction*	<b>02.12.2024 14:00 Hrs</b>
8	Issuance of Letter of Award (LoA)*	<b>12.12.2024</b>
9	Signing of PPA*	<b>16.01.2025</b>

**\*Tentative**

**Important Note: Prospective Project Developers are requested to remain updated for any notices/amendments/clarifications etc. to the RfS document through <https://www.mstcecommerce.com/auctionhome/ppa/index.jsp>. No separate notifications will be issued for such notices/amendments/clarifications, etc., in the print media or individually. Intimation regarding notification/amendments/clarifications, etc., shall be updated on Website [www.krahejacorppower.com](http://www.krahejacorppower.com). and the details will only be available from <https://www.mstcecommerce.com/auctionhome/ppa/index.jsp>.**

## **Section 1**

# **INTRODUCTION, BACKGROUND & SCHEME DETAILS**

## **1. INTRODUCTION, BACKGROUND & SCHEME DETAILS**

### **1.1. INTRODUCTION**

**1.1.1.** Mindspace Business Parks Private Limited (hereinafter referred to as “MBPPL”) [formerly known as Serene Properties Private Limited], is a Company incorporated under the provisions of the Companies Act, 1956, having its registered office at Plot No. C-30, Block ‘G’, Opp. SIDBI, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051, Maharashtra, India. MBPPL is a deemed Distribution Licensee in its IT & ITeS Special Economic Zone (SEZ) area at Plot No. 3, Kalwa, TTC Industrial Area, MIDC, Taluka Thane, District Thane, in the State of Maharashtra.

**1.1.2.** Gigaplex Estate Private Limited (hereinafter referred to as “GEPL”), is a Company incorporated under the provisions of the Companies Act, 1956, having its registered office at Plot No. IT-5, Airoli Knowledge Park, TTC Industrial Area, Villages Airoli and Dighe, Thane, Maharashtra, India. GEPL is a deemed Distribution Licensee in its IT & ITeS SEZ area at Plot No. IT-5, Airoli Knowledge Park, TTC Industrial Area, Villages Airoli and Dighe, Thane, in the State of Maharashtra.

**1.1.3.** KRC Infrastructure and Projects Private Limited (hereinafter referred to as “KRCIPPL”) is a Company incorporated under the provisions of the Companies Act, 1956, having its registered office at Plot No. C-30, Block ‘G’, Opp. SIDBI, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051, Maharashtra, India. KRCIPPL is a deemed Distribution Licensee in its IT & ITeS SEZ area at Survey No. 65(p), Village Kharadi, Taluka Haveli, District Pune, Maharashtra, India.

**1.1.4.** MBPPL, GEPL, and KRCIPPL are jointly referred to as “KRC DISCOMs” in this Document.

### **1.2. BACKGROUND**

**1.2.1.** Considering the increasing Renewable Purchase Obligation, various Renewable Energy procurement options and its obligation to supply green power to its consumers, KRC DISCOMs have decided to procure Hybrid Wind + Solar RE power, to minimize the variability of power supply as well as meet the Solar and Non-Solar RPO targets.

**1.2.2.** MNRE has issued Guidelines for “Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects” vide No. 27/03/2023-RCM dated 21.08.2023, under the National Wind-Solar Hybrid Policy issued by MNRE on 14.05.2018 (along with subsequent amendments and clarifications). The Guidelines provide a framework for promotion of large grid connected wind-solar PV hybrid systems for optimal and efficient utilization of transmission infrastructure and land, reducing the variability in renewable power generation and achieving better grid stability. This Request for Selection (hereinafter called RfS) document has been prepared in line with the final Guidelines issued by MNRE, with necessary customisation discussed in later part of this Document.

**1.2.3.** KRC DISCOMs hereby invites proposals for setting up of Grid connected Wind-Solar Hybrid Power Projects in India on “Build Own Operate” basis for aggregate capacity of 60 MW. KRC DISCOMs shall enter into Power Purchase Agreement (PPA) with the successful bidders selected based on this RfS.

### **1.3. DETAILS OF POWER PROCUREMENT:**

**1.3.1.** The bidders selected by KRC DISCOMs based on this RfS, shall set up Wind-Solar Hybrid Power Projects in accordance with the provisions of this RfS document and draft Power Purchase Agreement (PPA), which can be downloaded from <https://www.mstcecommerce.com/auctionhome/ppa/index.jsp>.

**1.3.2.** KRC DISCOMs shall enter into PPA with the Bidders selected based on this RfS for purchase of Wind-Solar Hybrid power for a period of 20 years from Scheduled Commencement of Supply Date (SCSD) for new projects or from existing Wind-Solar Hybrid projects commissioned after 31<sup>st</sup> March 2024 based on the terms, conditions and provisions of the RfS. The tariff payable to Selected Bidder shall be fixed for 20 years as discovered through the e-bidding and e-reverse auction conducted vide this RfS. The bidders will be free to avail fiscal incentives like Accelerated Depreciation, Concessional Excise Duties, Tax Holidays, Benefits from trading of Carbon Credits, etc., as available for such projects. The same will not have any bearing on comparison of bids for selection. As equal opportunity is being provided to all bidders at the time of tendering itself, it is up to the bidders to avail various tax and other benefits. No claim shall arise on KRC DISCOMs for any liability if bidders are not able to avail fiscal incentives and this will not have any bearing on the applicable tariff.

**1.3.3.** Wind-Solar Hybrid Power Developer (HPD) shall be responsible for arrangement of startup power / auxiliary consumption.

## **1.4. SELECTION OF TECHNOLOGY & ELIGIBLE PROJECTS**

**1.4.1.** The Projects to be selected for aggregate capacity of 60 MW, provide for deployment of Wind-Solar Hybrid Power Technology. Only commercially established and operational technologies can be used, to minimise the technology risk and to achieve scheduled commissioning of the Projects. The technology to be adopted shall be commercially established technology as per the type certified wind turbine models listed in Revised List of Models and Manufactures (RLMM) (Refer NIWE website) issued by MNRE and for Solar modules, in accordance with MNRE's Approved Models and Manufacturers of Solar PV Modules (Requirements for Compulsory Registration) Order, 2019 as amended from time to time, whichever is applicable. Final details of the same shall be submitted 30 days before SCSD of project.

**1.4.2.** Projects under construction, projects which are not yet commissioned and projects already commissioned post 31<sup>st</sup> march 2024 but do not have any long-term PPA with any agency and selling power on short-term basis or merchant plant will also be considered, in case these projects are not already accepted under any other Central or State Schemes and do not have any obligations towards existing buyers.

## **Section 2**

### **Definitions of Terms**

## 2. DEFINITIONS OF TERMS

Following terms used in the document will carry the meaning and interpretations as described below:

### Definitions

**"Act" or "Electricity Act, 2003"** shall mean the Electricity Act, 2003 and include any modifications, amendments and substitution from time to time;

**"Affiliate"** shall mean a Company that, directly or indirectly,

i. controls, or

ii. is controlled by, or

iii. is under common control with a Company developing a Project or a Member in a Consortium developing the Project and control means ownership, directly or indirectly, of more than 50% (fifty percent) of the voting shares of such Company or right to appoint majority Directors to the Board of Directors;

**"Appropriate Commission"** shall mean Maharashtra Electricity Regulatory Commission;

**"Bidder"** shall mean Bidding Company (including a foreign company) or a Limited Liability Partnership (LLP) or a Bidding Consortium submitting the Bid. Any reference to the Bidder includes Bidding Company/LLP/Bidding Consortium/Consortium Member of a Bidding Consortium including its successors, executors and permitted assigns and Lead Member of the Bidding Consortium jointly and severally, as the context may require; foreign Companies participating in the bidding process shall be registered as Companies as per the rules of their country of origin;

**"Bidding Consortium" or "Consortium"** shall refer to a group of Companies that has collectively submitted the response in accordance with the provisions of this RfS under a Consortium Agreement;

**"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, 2024 as amended from time to time.

For illustration, CUF shall be calculated based on the annual energy injected and metered at the Delivery Point. In any Contract Year, if 'X' MWh of energy has been metered at the Delivery Point for 'Y' MW Contracted capacity,  $CUF = (X \text{ MWh} / (Y \text{ MW} * 8766)) * 100\%$ .

**"CERC"** shall mean Central Electricity Regulatory Commission.

**"Chartered Accountant"**: For bidders or its Parent, Affiliate or Ultimate Parent or any Group Company incorporated in India, **"Chartered Accountant"** shall mean a person practicing in India or a firm whereof all the partners practicing in India as a Chartered Accountant(s) within the meaning of the Chartered Accountants Act, 1949.

For bidders or its Parent, Affiliate or Ultimate Parent or any Group Company incorporated in countries other than India, **"Chartered Accountant"** shall mean a person or a firm practicing in the respective country and designated/registered under the corresponding Statutes/laws of the respective country;

**"Company"** shall mean a body corporate incorporated in India under the Companies Act, 1956 or the Companies Act, 2013, as applicable;

**"Contracted capacity"** shall mean the AC capacity in MW contracted with KRC DISCOMs for supply by the HPD to KRC DISCOMs at the Delivery Point from the Project;

**"Contract Year"** shall mean the period beginning from the Effective Date of the 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:

1. 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 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
2. provided further that the last Contract Year of this Agreement shall end on the last day of the Term of the PPA;

**"Control"** shall mean the ownership, directly or indirectly, of more than 50% (fifty percent) of the voting shares of such Company or right to appoint majority Directors to the Board of Directors;

**"Controlling shareholding"** shall mean more than 50% of the voting rights and paid-up share capital in the Company/Consortium;

**"CTU" or "Central Transmission Utility"** shall mean the Central Transmission Utility as defined in sub-section (1) of Section 38 of the Electricity Act 2003;

**“Day”** shall mean calendar day;

**“DEEP Portal”** shall mean

<https://www.mstcecommerce.com/auctionhome/ppa/index.jsp>

**“Delivered Energy”** shall mean the kilowatt hours of energy actually fed and measured by the energy meters at the Delivery Point and as certified by SLDC as applicable;

**“Electricity Laws”** shall mean the Electricity Act, 2003 and the relevant rules, notifications, and amendments issued thereunder and all other Laws in effect from time to time and applicable to the development, financing, construction, ownership, operation or maintenance or regulation of electric generating companies and Utilities in India, and the rules, regulations and amendments issued by CERC/ MERC from time to time.

**“Effective Date”** shall mean the date of execution of Power Purchase Agreement (PPA) by both the parties;

**“Equity”** shall mean Net Worth as defined in Companies Act, 2013;

**“Financial Closure or Project Financing Arrangements”** shall have the same meaning as defined in 3.15 of RfS;

**“Financing Parties”** means Parties financing the Project, pursuant to Financing Documents;

**Group Company**” of a Company means

- (i) a Company which, directly or indirectly, holds 10% (ten percent) or more of the share capital of the Company, or
- (ii) a Company in which the Company, directly or indirectly, holds 10% (ten percent) or more of the share capital of such Company, or
- (iii) a Company in which the Company, directly or indirectly, has the power to direct or cause to be directed the management and policies of such Company whether through the ownership of securities or agreement or any other arrangement or otherwise, or
- (iv) a Company which, directly or indirectly, has the power to direct or cause to be directed the management and policies of the Company whether through the ownership of securities or agreement or any other arrangement or otherwise, or

(v) a Company which is under common control with the Company, and control means ownership by one Company of at least 10% (ten percent) of the share capital of the other Company or power to direct or cause to be directed the management and policies of such Company whether through the ownership of securities or agreement or any other arrangement or otherwise:

Provided that a financial institution, scheduled bank, foreign institutional investor, non-banking financial company, any mutual fund, pension funds and sovereign funds shall not be deemed to be Group Company, and its shareholding and the power to direct or cause to be directed the management and policies of a company shall not be considered for the purposes of this definition unless it is the Project Company or a Member of the Consortium developing the Project;

***“Guidelines”*** means the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects as issued by the Ministry of New & Renewable Energy including subsequent amendments and clarifications thereof;

***"INR"*** means Indian Rupees;

***"InSTS"*** means Intra-State Transmission System;

***"Inter-connection/Injection/Delivery/Metering point"*** shall mean the point at 33 kV or above, where the power from the Project(s) is injected into the identified Intra-State or Inter State substation (including the dedicated transmission line connecting the Projects with the substation system) as specified in the RfS document. Metering shall be done at this interconnection point where the power will be injected into. For interconnection with grid and metering, the HPDs shall abide by the relevant CERC and SERC Regulations, Grid Code, and Central Electricity Authority Regulations as amended from time to time. For intra - State Projects, metering shall be at the LV side of the STU substation at which power is injected in the transmission system of STU; For inter - State Projects, energy settlement and Delivery point shall be at Maharashtra STU periphery;

***"Interested Parties"*** shall mean a situation where control is equally distributed among interested parties in the Group Company or Bidding Consortium;

***"ISTS"*** means Inter-State Transmission System;

***"InSTS"*** means Intra-State Transmission System;

**“Joint Control”** shall mean a situation where a Company has multiple promoters (but none of the shareholders have more than 50% of voting rights and paid up share capital);

**“Lead Member of the Bidding Consortium” or “Lead Member”:** There shall be only one Lead Member, having shareholding more than 51% in the Bidding Consortium, which cannot be changed till one year from the Scheduled Commencement of Supply Date (SCSD) of the Project;

**“Letter of Award” or “LOA”** shall mean the letter issued by KRC DISCOMs to the successful Bidder for award of the Project;

**“Limited Liability Partnership” or “LLP”** shall mean a Company governed by Limited Liability Partnership Act 2008 or as amended;

**“LLC”** shall mean Limited Liability Company;

**“KRC DISCOMs”** shall mean the Distribution licensees, Mindspace Business Parks Private Limited (MBPPL), Gigaplex Estate Private Limited (GEPL), and KRC Infrastructure and Projects Private Limited (KRCIPPL) which are jointly procuring the power;

**“Member in a Bidding Consortium” or “Member”** shall mean each Company in a Bidding Consortium. In case of a Technology Partner being a member in the Consortium, it has to be a Company;

**“MERC”** shall mean Maharashtra Electricity Regulatory Commission;

**“Month”** shall mean calendar month;

**“Net-Worth”** means the Net-Worth as defined in Section 2 of the Companies Act, 2013;

**“Paid-up share capital”** means the paid-up share capital as defined in Section 2 of the Companies Act, 2013;

**“Parent”** means a Company, which holds more than 50% voting rights and paid-up share capital, either directly or indirectly in the Project Company or a Member in a Consortium developing the Project;

**“PGCIL”** means Power Grid Corporation of India Limited;

**“PPA”** shall mean the Power Purchase Agreement signed between the successful bidder and KRC DISCOMs according to the terms and conditions of the standard PPA enclosed with this RfS;

**“Project”** shall mean the Wind-Solar Hybrid Power Project, comprising Solar PV and Wind Power generation facilities having a single point or separate points of injection in to the grid at the Delivery Point/Interconnection Point/Metering Point at STU sub-station or in case of sharing of transmission lines, by separate injection at STU sub-station and having control systems and metering. The Project shall include all units/ modules and auxiliaries and

associated facilities, bay(s) for transmission system in the switchyard, dedicated transmission line up to the Delivery Point/Interconnection Point/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 KRC DISCOMs;

**“Project Capacity”** means the maximum AC capacity (in MW) at the delivery Point that can be scheduled on which the PPA shall be signed;

**“Project 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 RfS document/PPA;

**“Project Developer” or “Developer” or “Wind-solar Hybrid Project Developer (HPD)”** means the Bidding Company or a Bidding Consortium participating in the bid and having been selected and allocated a hybrid project capacity by KRC DISCOMs through a competitive bidding process;

**“Project Location”** means the area identified by the HPD, comprising village(s), Tehsil(s)/Taluk(s) and District(s) within a State, where the Project is being implemented;

**“RfS document”** shall mean the bidding document issued by KRC DISCOMs including all attachments, clarifications and amendments thereof vide RfS No. MBPPL/Power/2024-25/M156 dated 10.09.2024.

**“Scheduled Commencement-of-Supply Date (SCSD)”** in relation to the contracted capacity shall mean the date corresponding to the date of commencement of supply and the date as declared by the Successful Bidder in the PPA for 100% contracted capacity, which shall be within 18 (Eighteen) months from the date of execution of the PPA;

**“Selected Bidder or Successful Bidder”** shall mean the Bidder selected pursuant to this RfS to set up the Project and supply electrical output as per the terms of PPA;

**“SOLAR PV PROJECT”** shall mean the Solar Photo Voltaic Power Project that uses sunlight for direct conversion into electricity through Photo Voltaic Technology with or without Energy Storage Systems (ESS), as the case may be. ESS charged using a source other than solar power would not qualify as solar power or be acknowledged Solar PV project.;

**“STU or State Transmission Utility”** shall mean the Board or the Government Company notified by the respective State Government under Sub-Section I of Section 39 of the Electricity Act, 2003;

**“TOE”** shall mean Tender Opening Event;

**“Ultimate Parent”** shall mean a Company, which owns not less than 50% (Fifty Percent) equity, either directly or indirectly in the Parent and Affiliates;

**“Week”** shall mean calendar week;

**“Wind Power Project”** means the wind power project that uses wind energy for conversion into electricity through wind turbine generator.

## **Section 3**

# **BID INFORMATION AND INSTRUCTION TO BIDDERS**

### **3. BID INFORMATION AND INSTRUCTION TO BIDDERS**

#### **3.1. OBTAINING RfS DOCUMENT, COST OF DOCUMENTS & PROCESSING FEES**

**3.1.1.** The RfS document can be downloaded from the website of DEEP Portal, <https://www.mstcecommerce.com/auctionhome/ppa/index.jsp>. A link of the same is also available at K Raheja Corp Power. website.

**Note:** - Interested bidders have to download the official copy of RfS and other documents after logging into the DEEP Portal by using the Login ID and Password provided by DEEP Portal during registration (Refer Annexure – C). The bidder shall be eligible to submit/ upload the bid document only after logging into the DEEP portal and downloading the official copy of RfS. Prospective Bidders interested to participate in the bidding process are required to submit their Project proposals in response to this RfS document along with a non-refundable processing fee as mentioned in the Bid Information Sheet. A bidding Company/ Consortium will be eligible to participate in the bidding process only on submission of entire financial amounts as per the Bid Information Sheet. In case the Bidder chooses to submit the amounts pertaining to Cost of RfS document and Bid Processing Fee through NEFT/RTGS (electronic transfer), the Bidder shall submit the transaction receipt instead of the corresponding DDs, as part of the offline bid submission. The bank details of KRC DISCOMs are as mentioned in this document. The bids submitted without cost of the RfS document and/or Processing Fee and/or Bank Guarantee against EMD (including partial submission of either of the respective amounts), may be liable for rejection by KRC DISCOMs.

#### **3.2. TOTAL CAPACITY OFFERED, PROJECT SCOPE AND TECHNOLOGY SELECTION**

##### **3.2.1. Selection of Grid-connected Hybrid Power Projects**

- A. Selection of Grid-connected Wind-Solar Hybrid Power Projects for total capacity of 60 MW will be carried out through e-bidding followed by e-Reverse Auction process, based on the tariff of sale of electricity quoted by the Bidders in INR/kWh with Greenshoe option of  $\pm 10\%$ .

- B. A Bidder, including its Parent, Affiliate or Ultimate Parent or any Group Company shall submit a single bid offering a minimum quantum of cumulative Contracted Wind-Solar Hybrid Capacity of 10 MW and a maximum quantum of 30 MW, in the prescribed formats. The cumulative Contracted Capacity shall be quoted in multiple of 5 MW only.
- C. The total Contracted Capacity to be allocated to a Bidder including its Parent, Affiliate or Ultimate Parent or any Group Company shall be limited to 30 MW.
- D. Developers who have already installed wind solar hybrid power plants commissioned after 31st March 2024 or are in the process of constructing such plants and have untied capacity may also participate in the bid. In such case, they will be given the benefit of a longer period of PPA, commensurate to the duration between the actual date of commencement of supply of power and SCSD.

### 3.2.2. Capacity of each type of Project:

The Hybrid Power Projects are required to be designed for inter-connection with transmission network of CTU/STU. Following points are to be noted in this regard:

- A. Due to small project size requirement, bidders are only permitted to bid for full Project Capacity, which need to be interconnected at a single Delivery Point.
- B. Under this RfS, a Hybrid Power Project shall mean a Project comprising two ‘components’, viz., one Solar and one Wind Power Project. The rated installed Project capacity of Solar Power Project would be at least 30 MW and Wind Power Project would be at least 30 MW. Each successful bidder would have to execute Solar and Wind Capacity prorated to its allocated capacity.  
For example, if a Bidder is allocated 10 MW Capacity it would have to commission at least Solar project capacity of 5 MW ( $30/60*10$ ) and Wind project capacity of 5 MW ( $30/60*10$ )

Note:

- i. In the interest of utilizing the Maximum potential offered by hybridization of the two components, the HPD is free to declare the rated Project capacity of the Hybrid Power Project at the input level of the Sub-Pooling Substation, which shall be considered as the Project capacity of the Hybrid Power Project. The same Project

Capacity shall be entered in the Covering Letter and shall be considered as the Contracted Capacity under the PPA.

- ii. For avoidance of any doubt, it is hereby reiterated that the Project Capacity of the Hybrid Project does not necessarily have to be the arithmetic sum of the installed capacity of the two components. However, the requirements as indicated above, regarding the minimum installed rated capacity of each of the components shall be strictly adhered to, failing which, the Project shall not be eligible for commissioning under the RfS.

C. The HPDs shall demonstrate the rated capacities of each component separately at the input side of the STU Substation as per the standard commissioning procedures. The HPD shall also maintain records of generation of electrical energy from wind and solar resource of the Wind-Solar Hybrid Project separately. The same shall be made available by the HPD to KRC DISCOMs as and when required by KRC DISCOMs.

### **3.2.3. Capacity Allocation Under Greenshoe Option**

The modality for allocation of  $\pm$  5 MW capacity under Greenshoe option shall be as under:-

- i. Upon shortlisting the Projects for 60 MW as specified in Clause 3.2 above, KRC DISCOMs, may at their own discretion, procure  $\pm$  5 MW under Greenshoe option.
- ii. Once the capacity selection for 60 MW as specified in Clause 3.2 above is exhausted, KRC DISCOMs, may further allocate capacity under Greenshoe option based on next lowest quoted tariff and so on until the capacity up to 5 MW under Greenshoe option is exhausted. Also, KRC DISCOMs at their own discretion procure 5 MW capacity lower than 60 MW based on their requirement.

### **3.2.4. Project Scope and Technology Selection**

Under this scheme, the HPD shall set up Wind-Solar Hybrid Power Project including the transmission/distribution network up to the Delivery Point in line with Clause 3.7, at its own cost and in accordance to the provisions of this RfS

document. All approvals, permits and clearances required for setting up of the Project (along with connectivity and Long-Term Open Access) including those required from State Government and local bodies shall be in the scope of the HPD. The Projects to be selected under this scheme provide for deployment of wind-solar hybrid power technology. However, the selection of Projects would be technology agnostic. In order to ensure quality of wind turbines installed, only type certified wind turbines models listed in Revised List of Models and Manufacturers (RLMM) as published by MNRE from time to time and as on the date of commissioning of the project, shall be allowed for deployment. In order to ensure only quality systems are installed, the Bidders shall strictly comply with the technical parameters detailed in the Annexure –A and as specified by MNRE from time to time whichever is applicable.

For solar modules and balance of systems, technology would be within PV technology and crystalline silicon or thin film, etc., with or without Trackers (The trackers may fulfil the criteria as per the Annexure-E or any better technology/specifications) can be installed and the technology to be adopted shall be commercially established technology which should be in accordance with MNRE's "Approved Models and Manufacturers of Solar PV Modules (Requirements for Compulsory Registration) Order, 2019 Implementation-Reg." and its subsequent amendments and clarifications issued until prior to at least 30 days before SCSD, shall be applicable for this RfS. The modules used in the Projects under this RfS should have been included in the List-I under the above Order, valid as on the date of invoicing of such modules. Further, the bidder shall submit Declaration Format associated with Implementation of ALMM Order as per the Annexure- E attached to this RfS. The Bidder shall identify 100% land required for the project and submit tentative locations at the time of submission of bid in Format 6.1. The Bidder shall be allowed to change the location of the project once at the time of achievement of Financial Closure, i.e., within 12 (Twelve) months from the date of execution of the Power Purchase Agreement.

HPDs who have already commissioned Solar PV plants/Wind Power plants/Hybrid Power Plants by 31st March 2024 or are in process of constructing such plants and

have untied capacity may also participate in the bid provided they fulfil requisite project scope and Technology requirement.

### **3.3. PROJECT LOCATION**

The Projects shall be located at the locations chosen by the Bidder/HPD at its own discretion of and cost, risk and responsibility. However, Project location should be chosen taking cognizance of the provisions as per Clause 3.7 of the RfS.

### **3.4. ELIGIBILITY FOR PROJECT CAPACITY ALLOCATION**

Following conditions shall be applicable to the Bidders for submission of bids against this RfS:

- i. Under this RfS, a bidder including its Parent, Affiliate or Ultimate Parent or any Group Company can submit a single bid application for the whole Capacity offered as per section 3.2.
- ii. Multiple bids from same Company including its Parent/ Ultimate Parent /Affiliates/Group Companies shall make all the bids submitted by the Group invalid.
- iii. The evaluation of bids shall be carried out as described in Section 4. The methodology of allocation of projects is elaborated in Section 4.

### **3.5. QUALIFICATION REQUIREMENTS**

Short-listing of Bidders will be based on meeting the following criteria:

#### **3.5.1. Company as defined.**

- a. The Bidding Entity should be incorporated in India under the Companies Act 1956 or Companies Act, 2013 as applicable. Bidding Consortium with one of the Companies as Lead member. Consortium shortlisted and selected based on this RfS has to necessarily form a Project Company and get it registered under the Companies Act, 2013, before signing of PPA, keeping the original shareholding of the Bidding Consortium unchanged. The combined shareholding of the consortium members in the SPV / Project company executing the PPA, shall not fall below 51% at any time prior to 1 (one) year from the SCSD, except with the prior approval of KRC DISCOMs. A bidder,

which has been selected as successful Bidder based on this RfS shall execute the Project through a Special Purpose Vehicle (SPV), i.e., a Project company specially incorporated as a fully owned subsidiary Company (100% subsidiary) of the successful bidder for setting up of the Project, which has to be registered under the Indian Companies Act, 2013, before signing of PPA. It is also clarified that the SPV shall be only for the purpose of the Project under this RfS and shall not engage in any other activities that are not directly related to the Project. For the avoidance of doubt, it is hereby clarified that the shareholding pattern of the Project Company shall be the identical to the shareholding pattern of the Consortium as indicated in the Consortium Agreement (Format 6.5).

- b. A foreign Company can also participate on standalone basis or as a member of consortium at the RfS stage. In case of foreign Company participating on standalone basis and its selection as successful Bidder, it has to form a “Special Purpose Vehicle” (SPV), i.e., an Indian Company registered under the Companies Act, 2013 as its fully owned subsidiary Company (i.e., 100% subsidiary), before signing of PPA. In case a Foreign Company is selected as the successful Bidder, it shall comply with all the laws and provisions related to Foreign Direct Investment in India.
- c. In case of a foreign Company participating as a member of consortium, the clause 3.5.2 shall be applicable. Foreign Company participating in RFS shall also comply with the applicable rules on Foreign Direct Investments as specified by Government of India from time to time.
- d. Limited Liability Companies (LLC) shall be eligible to participate. Further, if such Limited Liability Companies are selected as successful Bidders, they will have to register as a Company under the Indian Companies Act, 1956 or Companies Act, 2013, as applicable, before signing of PPA, keeping the original shareholding of LLC unchanged. In such cases, it shall also be mandatory on the part of such Limited Liability Companies to either demonstrate or infuse the capital in form of his own equity in line with the requirement stipulated in Clause 3.6 given below. In case LLC fails to incorporate as an Indian Company before signing of PPA or unable to

demonstrate/ infusion of capital in form of his own equity into the Company registered in India or not able to sign PPA with KRC DISCOMs, EMD of such Bidders shall be forfeited. Note: Limited Liability Companies (LLC) shall be eligible only for those LLCs, which are formed by Companies.

- e. Limited Liability Partnership (LLPs) are not eligible for participation.

The Bidder or any of its Affiliates should not be a willful defaulter to any lender, and there should be no major litigation pending or threatened against the Bidder or any of its Affiliates, which are of a nature that could cast a doubt on the ability or the suitability of the Bidder to undertake the Project. The Bidder shall submit an undertaking to this effect as mentioned in Format 6.7.

For avoidance of doubt, it is clarified that the fully owned subsidiary Company as mentioned in Clauses 3.5.3 and 3.5.4 above should be an immediate 100 % subsidiary of the Bidder, without any intermediaries involved.

### **3.6. ELIGIBILITY CRITERIA**

#### **3.6.1. Net-Worth**

The Net Worth of the Bidder should be equal to or greater than the amount calculated as per the following formula based on the Installed Capacity break-up quoted by the Bidder:

Minimum Net-Worth requirement = [(Rs. 94,20,000 x Rated Installed Capacity of Solar PV component (MW)) + (Rs. 1,29,80,000 x Rated Installed Capacity of Wind Power component (MW))] as on the last date of previous Financial Year 2023-24, or as on the date at least 7 days prior to the due date of bid submission.

The Bidders shall have to furnish a Certificate from Chartered Accountants/Appropriate Authority, certifying the Net Worth per MW of quoted capacity as on 31st March 2023 or as on the date at least 7 days prior to the due date of bid submission.

For avoidance of doubt, ‘Net Worth’ as per section 2(57) of the Companies Act, 2013 means the aggregate value of the paid-up share capital and all reserves created

out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation.

### **3.6.2. Liquidity**

In order to ascertain that the Bidder has sufficient means to manage the fund requirements for the Project, the Bidder shall be required to demonstrate at least one of the following parameters:

A minimum annual turnover of Rs. 75 lakh/MW of the quoted capacity during the previous Financial Year (FY) 2022-23 or as on the date at least 7 days prior to the due date of bid submission. It is hereby clarified that “Other Income” as indicated in the annual accounts of the Bidder shall not be considered for arriving at the annual turnover.

Internal resource generation capability, in the form of Profit Before Depreciation Interest and Taxes (PBDIT) for a minimum amount of Rs. 15 Lakh/MW of the quoted capacity, as on the last date of previous Financial Year (FY) 2023-24, or as on the date at least 7 days prior to the due date of bid submission.

In-principle sanction letter from the lending institutions/banks of the Bidder, committing a Line of Credit for a minimum amount of Rs. 18.75 Lakh/MW of the quoted capacity, towards meeting the working capital requirement of the project quoted under this RfS. Such letter can also be obtained by the Affiliate(s) of the Bidder.

The Bidder may seek qualification on the basis of financial capability of its Affiliate(s) for the purpose of meeting the qualification requirements as per Clause 3.6.1 and 3.6.2 above. In case of the Bidder being a Bidding Consortium, any Member may seek qualification on the basis of financial capability of its Affiliate(s).

In all the above cases, the Bidder shall be required to submit Board Resolutions from the respective Affiliate(s), undertaking to contribute the required equity funding in case the Bidder(s) fail to do so in accordance with the RfS. In case of non-availability of the Board Resolution as required above, a letter from the CEO/Managing Director of the respective Affiliate(s), undertaking the above, shall be required to be submitted and the requisite Board Resolution from the Affiliate(s) shall be required to be submitted prior to signing of PPA.

For the purposes of meeting financial requirements, only latest unconsolidated audited annual accounts shall be used. However, audited consolidated annual accounts of the Bidder may be used for the purpose of financial requirements provided the Bidder has at least twenty-six (26%) equity in each Company whose accounts are merged in the audited consolidated account and provided further that the financial capability of such Companies (of which accounts are being merged in the consolidated accounts) shall not be considered again for the purpose of evaluation of any other response to this RfS.

A Company/Consortium would be required to submit annual audited accounts for the last financial year, i.e., 2023-24 along with net worth, annual turnover and PBDIT certificate (as applicable) from a practicing Chartered Accountant/Statutory Auditor; or in case of the bidder meeting the criteria on the date at least 7 days prior to due date of bid submission, provisional audited accounts as on the date at least 7 days prior to the due date of bid submission, along with copies of Balance Sheet, Profit & Loss Account, Schedules and Cash Flow Statement supported with bank statements certified by a practicing Chartered Accountant, in order to demonstrate fulfilment of the criteria. In case of foreign Companies, the Bidders shall be required to submit the annual audited accounts for the last respective financial year as per the general norm in the country where the Bidder or its Affiliate(s) is/are located, or provisional accounts as on the day at least 7 days prior to the bid submission deadline.

**Note:** In case of foreign Bidders, in the event the Bidder is unable to furnish the audited accounts for the previous financial year as per the prevalent norm in the respective country, the Bidder shall submit the audited accounts of the last financial

year for which the audited accounts are available. This, however, would be acceptable, subject to the condition that the last date of response to this RfS falls on or within the deadline for completion of audit of annual accounts of companies, as stipulated by the laws/rules of the respective country, and the Bidder shall submit the corresponding documentary evidence against the same.

In case the annual accounts or provisional accounts as on the day at least 7 days prior to the bid submission deadline are submitted in a language other than English, a certified English translation from an approved translator shall be required to be submitted by the Bidder.

For meeting the above financial eligibility criteria, if the data is provided by the Bidder in a foreign currency, equivalent Indian Rupees of Net Worth and other financial parameters will be calculated by the Bidder using Reserve Bank of India's reference rates prevailing on the date of closing of the accounts for the respective financial year.

In case of any currency for which RBI reference rate is not available, Bidders shall convert such currency into USD as per the exchange rates prevailing on the relevant date and used for such conversion, as certified by their banker. After such conversion, Bidder shall follow the procedure/ submit document as elaborated in Clause 3.6.6 above.

In case the response to RfS is submitted by a Consortium, then the financial requirement (both the Net-Worth and Liquidity requirements) to be met by each Member of the Consortium shall be computed in proportion to the equity commitment made by each of them in the Project Company.

For e.g. if two Companies A and B form a Consortium with equity participation in 70:30 ratio and submit their bid for a capacity of 60 MW, then, total Net-Worth to be met by the Consortium is Rs. 1 Crore x 60 MW = Rs. 60 Crore (if net worth criteria works out to 1 Crore per MW). Minimum requirement of Net-Worth to be met by Lead Member A would be minimum Rs. 42 Crore and to be met by Consortium Member B would be Rs. 18 Crore.

### **3.7. CONNECTIVITY WITH THE GRID**

The Project should be designed for delivery of energy at STU periphery as per applicable Delivery Point.

- A. The Project should be designed for interconnection with the ISTS/InSTS in accordance with the prevailing CERC/MERC Regulations in this regard. For interconnection with the grid and metering, the HPD shall abide by the applicable Grid Code, Grid Connectivity Standards, Regulations on Communication System for transmission of electricity and other Regulations/procedures (as amended from time to time) issued by Appropriate Commission and Central Electricity Authority (CEA).
- B. The responsibility of getting the grid connectivity with CTU/STU/DISCOM shall entirely be of the Successful Bidder and the same shall be in the name of successful bidder/SPV/its Developer:

Provided that if successful bidder with whom PPA has been executed have the grid connectivity in the name of developer, then successful bidder shall submit Memorandum of Understanding (MoU) between successful bidder and developer for utilization of grid connectivity of the developer by the successful bidder under this tender. The MoU shall be valid till the tenure of PPA, i.e., 20 years from SCSD. However, successful bidder shall fulfil all the responsibilities under this PPA.

The responsibility of getting the ISTS (or InSTS in case of Intra-State Projects) connectivity shall entirely be of the HPD and shall be at the cost of the HPD, in line with applicable Regulations. With such availability of transmission system being dynamic in nature, the Bidder must ensure actual availability of power injection/evacuation capacity at the ISTS (or InSTS in case of Intra-State Projects) substation. The transmission of power up to the point of interconnection where metering is done for energy accounting, shall be the responsibility of the HPD at its own cost. In case an HPD is required to use InSTS to bring RE power at ISTS point, it may do so as per Rule and Regulations prescribed by the appropriate ERC in this regard. The maintenance of transmission system up to the Interconnection Point(s) shall be responsibility of the HPD, to be undertaken entirely at its risk and cost.

The Successful Bidder shall submit documentary evidence for securing connectivity with grid from CTU/STU/DISCOM within 12 months from the date of signing of PPA.

- C. The transmission of power up to Metering point/Delivery point/Interconnection point shall be the responsibility of the Successful Bidder at his own cost. The maintenance of Transmission system up to the Metering point/Delivery point/Interconnection point shall be responsibility of the Successful Bidder.
- D. The arrangement of connectivity can be made by the Successful Bidder through a dedicated line. The dedicated line may be constructed by the Successful Bidder or through any other agency. The entire cost of transmission including cost of construction of line, SLDC/Scheduling charges, System Operating Charges, Market Operation Charges, maintenance, losses, etc., and any other charges, from the Project up to the Metering point/Delivery point/Interconnection point will be borne by the Successful Bidder.
- E. The HPD shall be required to follow the Detailed Procedure as issued by CERC/CTU under the General Network Access under the Central Electricity Regulatory Commission (Connectivity and General Network Access to the Inter-State Transmission System) Regulations, 2022 including subsequent amendment and clarifications issued thereto. The Hybrid Power Project shall comply with all the technical requirements specified under Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007, including subsequent amendment and clarifications issued thereto, as well as other Rules/Regulations issued by CERC/CEA and as amended from time to time. It is further clarified that the Entities (HPD and KRC DISCOMs) as indicated in the procedure issued under the above Rules/Regulations, will be responsible for their respective obligation as notified in the procedure, irrespective of the provisions of the RfS and PPA. The Projects shall also comply with the Central Electricity Authority (Measures relating to Safety and Electric Supply) Regulations, including subsequent amendments and clarifications issued thereto.
- F. The Successful Bidder shall not be entitled to deemed generation in case of any delay in grant of connectivity or non-availability of Open Access till the Delivery Point.

G. The Bidders are free to choose the ISTS or InSTS substations for Interconnection of the Project to the Grid on a pan-India basis. While doing so, the Bidders shall apply due diligence while choosing the proposed substation, and may choose their substations from any one of the following options:

H. Existing substations having available margin as indicated by the respective substation owner.

Existing substations/ substations under construction where augmentation is under process or plans for augmentation have been announced. Substations approved under the updated plan made available by the CTU/STU on their website, <https://www.ctu.in/renewable-energy>, subject to availability of requisite margin for grant of connectivity.

I. Bids indicating substations outside the above three choices will be liable for rejection.

The Successful Bidder shall comply with CERC/MERC/SERC Regulations on Forecasting, Scheduling and Deviation Settlement, as applicable and be responsible for all liabilities related to grid connectivity. In case of absence of Regulations specific to Hybrid Projects, the above Regulations will be adhered to, separately for Wind and Solar Project components.

The HPD shall be responsible for all transmission charges and losses and any other charges as applicable under the respective Regulations till the Delivery Point.

### **3.8. CAPACITY UTILIZATION FACTOR (CUF)**

“Declared CUF” shall mean the % capacity utilization factor of the project mentioned in Clause No. 4.4.1 of the PPA and which shall be allowed to be revised once within first three years of SCSD. Such revision of the CUF shall be done within completion of three years from SCSD and no such revision shall be allowed thereafter and it shall remain unchanged for the balance term of the PPA.

#### **3.8.1. Criteria for energy supply:**

The bidders will declare the annual CUF of their Projects in the Covering Letter as per Format 6.1 and HPDs will be allowed to revise the same once within first 3 years

of SCSD. The revised CUF shall not be lower than the CUF initially quoted by the Bidder. The CUF so revised, shall be applicable after intimation by HPD to KRC DISCOMs, and be applicable till remaining period of PPA. The declared annual CUF shall in no case be less than 25% (Twenty five percent) over a contract year. Calculation of CUF will be on yearly basis from 1st April of the year to 31st March of next year. Energy supplied between SCSD and commencement of first financial year after SCSD will not be taken into consideration for the purpose of calculation of CUF. Subsequently, the annual CUF will be calculated every year from 1st April of the year to 31st March of next year.

HPD shall maintain generation so as to achieve annual CUF not less than 90% of the declared value and not more than 120% of the declared CUF value, during the PPA duration of 20 years. The lower limit will, however, be relaxable by KRC DISCOMs to the extent of non-availability of grid for evacuation (as certified by RLDC/SLDC) which is beyond the control of the HPD.

The HPDs are free to install additional Solar PV modules and wind turbines in the Projects, subject to the following conditions:

- A. Details of the overall Project configuration, including details of additional capacity that HPD is proposing to install in the Project, must be provided within 30 days of issuance of LoA.
- B. Excess generation on account of the above additional installed capacity shall be treated in line with provisions of Article 4.4.3 of the PPA.
- C. The HPD will undertake that such installed capacity over & above the contracted capacity would not cause any disturbance in the grid system, at no instance, power more than the contracted capacity under the PPA would be injected into the grid, and they will always comply with the terms of the PPA in this regard.
- D. This undertaking will be submitted to KRC DISCOMs/CTU/STU, to be intimated by HPD at the time of commencement of power supply from the project.
- E. At all-times, the HPD shall have to follow the applicable Indian Electricity Grid Code/Rules/Regulation/Procedures issued by MoP/CEA/CERC/SERC/CTU/

GRID-INDIA/STU for all WTGs, including additional Capacity, if any, installed under the Project.

- F. As specified in CERC approved “Procedure for Implementation of the Framework on Forecasting, Scheduling and Imbalance Handling for Renewable Energy (RE) Generating Stations including Power Parks based on Wind and Solar at Inter-State Level”, each single Generator level data shall be provided by HPD to CTU/GRID-INDIA/STU, for all the turbines installed in the Project.
- G. HPD would be permitted Connectivity as per the applications to CTU/STU. In case of installation of any excess capacity beyond the quantum for which Connectivity has been sought, the HPD would be required to capture all details of the same in their application formats as per the Connectivity procedure. It shall be ensured that such excess capacity added, fully complies with CEA (Technical Standards for connectivity to the Grid) Regulations 2007 (as amended from time to time) and all mandated documents/test reports shall be furnished in support of above.
- H. This additional installation of Capacity is a prerogative of the HPD to utilize their AC infrastructure optimally. Financial implications of applicability of relevant provisions of the PPA, i.e., Liquidated Damages, relief on account of Change in Law, etc., will be governed by the Contracted Capacity only.

### **3.8.2. Shortfall in minimum generation:**

During PPA, if for any year, it is found that the HPD has not been able to generate minimum energy corresponding to the lower limit of CUF declared by the HPD; such shortfall can be arranged by HPD from other RE sources at the PPA tariff; or the HPD shall be liable to pay the compensation @ 150% of the PPA tariff. This will, however, be relaxable by KRC DISCOMs to the extent of grid non-availability for evacuation, which is beyond the control of the HPD. However, this compensation shall not be applicable in events of Force Majeure identified under PPA with KRC DISCOMs affecting supply of wind-solar hybrid power by HPD.

### 3.8.3. Offtake constraints due to Grid Unavailability and Back down during Operation:

#### a. Generation Compensation in offtake constraints due to Grid Unavailability:

During the operation of the plant, there can be some periods where the plant can generate power but due to temporary transmission unavailability (to be certified by RLDC/SLDC) the power is not evacuated, for reasons not attributable to the Hybrid Power Developer. In such cases the generation compensation shall be addressed by KRC DISCOMs in following manner:

Duration of Grid unavailability	Provision for Generation Compensation
Grid un-availability in a contract year beyond 50 hours in a Contract Year as defined in the PPA	<p><b><i>Generation Compensation = ((Tariff X RE power (MW) offered but not scheduled by Procurer)) X 1000 X No. of hours of grid unavailability.</i></b></p> <p>However, in case of third-party sale or sale in the Power Exchange, as price taker, 95% of the amount realised, after deducting expenses, shall be adjusted against the Generation compensation payable, on monthly basis.</p>

#### b. Payment in case of reduced offtake:

In case the HPD is available to supply power but the off take of power is not done by KRC DISCOMs, including non-dispatch of power due to non-compliance with “Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 notified by the Ministry of Power vide Gazette notification dated 3rd June 2022” and any clarifications or amendment thereto, considering the principle of “must run” status for RE Power, the Generator shall be eligible for payment from the Procurer, corresponding to the reduced off take, in the following manner:

Reduced Off-take	Provision for Generation Compensation
Reduced off-take beyond 50 hours in a Year.	<b><i>Generation Compensation = (Tariff x RE power (MW) offered but not scheduled by Procurer) X 1000 X No. of hours of Reduced</i></b>

	However, in the case of third-party sale or sale in the power exchange, as price taker, 95% of the amount realized, after deducting expenses, shall be adjusted against the Generation compensation payable, on monthly basis.
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The Generation Compensation is to be paid as part of the energy bill for the successive month after receipt of REA/State Energy Accounts (SEA).

- c. In the event, where KRC DISCOMs do not schedule power on account of unavailability of the Transmission Infrastructure or any other eventuality, the penalty will be in accordance with the Electricity (Promotion of Generation of Electricity from Must-Run Power Plant) Rules, 2021, as amended from time to time.
- d. For claiming compensation, HPD must sell their power in the Power Exchange as a price taker. Thus, the compensation would be limited to the difference of the actual generation up to declared capacity subject to a maximum of up to the contracted capacity and the quantum of power scheduled by the procurer.

### **3.9. COMMENCEMENT OF POWER SUPPLY**

- 3.9.1.** Commissioning of the Projects shall be carried out by the HPDs in line with the procedure elaborated in the PPA document within a period of 12 (Twelve) months from the date of execution of the PPA. KRC DISCOMs may authorize any individual, committee, or organization to witness and validate the commissioning procedure on site. Commissioning certificates shall be issued by the SLDC/CTU/STU/DISCOM after successful commissioning. Project commissioning and declaration of Commercial Operation Date (COD) shall be governed by the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2023, as amended from time to time. Further the project which has achieved COD post 31st March 2024 and are ready to supply power to KRC Discoms will also be considered

**3.9.2.** The successful Bidder shall be required to obtain Developer and / or Transfer Permission, copy of key plan drawing showing survey number, plot number, point of installation of wind solar hybrid project with capacity.

**3.9.3.** Further, evidence of clear possession of Project Site selected by Successful Bidder shall be submitted 30 (Thirty) days before SCSD or extended SCSD for which the Successful Bidder shall provide documents/ Lease Agreement to establish possession/ right to use 100% (hundred per cent) of the required land in the name of the Successful Bidder or its Affiliate. In case the land is in the name of Affiliate, the land should be transferred in the name of Successful Bidder prior to Scheduled Commencement of Supply Date (SCSD).

Wherever leasing of private land is involved, the lease should allow transfer of land to lenders or KRC DISCOMs, in case of default of the Successful Bidder. For lease of Government land, if the lease is not available upfront for the entire term of the PPA, then the Successful Bidder shall be required to give an undertaking stating that they shall be solely responsible for securing the extension of required land for the balance period of term of PPA. For lease of private land, the lease period shall cover the entire term of PPA. Sworn affidavit from the authorized person of the Successful Bidder listing the details of the land and certifying total land required for the Project under clear possession of the Successful Bidder shall be submitted by the Successful Bidder 30 (thirty) days before SCSD. Commissioning of the Project will not be allowed until the demonstration of land possession by the successful bidder. Such delay in commissioning, if any, shall lead to liquidated damages as per clause 3.16.7.

**3.9.4.** Synchronization certificates shall be issued by the concerned SLDC after successful commissioning of Project. The date of onset of commercial offtake of power by KRC DISCOMs shall be determined as the date of commencement of power supply under the RfS/PPA. Prior to declaration of commencement power supply, the HPD shall submit COD certificate for the corresponding Installed Capacity to KRC DISCOMs as part of the requisite documents.

**A) Part Commencement of supply of Power**

Part Commencement of supply of power from the Project shall be accepted by KRC DISCOMs subject to the condition that the minimum capacity for acceptance of first part shall be 50% of Project Capacity allotted or 10 MW,

whichever is lower, without prejudice to the imposition of penalty, in terms of the PPA on the part which has not yet commenced supply of power. The projects can further commence supply of power in parts of at least 5 MW capacity; with last part as the balance capacity.

However, the SCSD will not get altered due to part commencement of supply of power. Irrespective of dates of part or full commencement of supply of power, the PPA will remain in force for the period specified in the PPA.

**B) Commissioning Schedule and Liquidated Damages not amounting to Penalty for delay in Commissioning**

- a. The Scheduled Commencement of Supply Date (SCSD) for supplying power from the full Project capacity shall be the date as on 12 months from the Effective Date of the PPA (for e.g. if Effective Date of the PPA is 07.01.2025, then SCSD shall be 07.01.2026).
- b. The maximum time period allowed for commencement of supply of power supply from the full Project capacity with applicable penalty, shall be limited to the date as on 6 months from the SCSD or the extended SCSD (if applicable).
- c. In case of delay in commencement of supply of power beyond the SCSD until the date as per Clause 3.9.4.B.a. above, as part of the penalty, the total PBG amount for the Project shall be encashed on per-day-basis and proportionate to the Contracted Capacity that has not commenced supply of power. For example, in case of a Project of 25 MW capacity, if commencement of power supply from 10 MW capacity is delayed by 12 days beyond the SCSD, then the penalty shall be calculated as: PBG amount X (10/25) X (12/180). For the purpose of calculations of penalty, 'month' shall be considered consisting of 30 days.
- d. For delay in commencement of power supply beyond the date as per Clause 3.9.4.B.a. above, the following shall be applicable:
  - i. The Contracted Capacity shall stand reduced to the Project capacity that has commenced supply of power until the date as per Clause 3.9.4.B.a. above, and PPA for the balance Contracted Capacity will stand terminated.

- ii. The HPD shall be debarred from participating in bids issued by any procurer, or any intermediary procurer as defined in the Guidelines, for the following period:
  - a. For one year, in case of first default.
  - b. For not less than 2 years, and not more than 3 years for second and any subsequent defaults.

Starting date of the above debarment period shall be the date of debarment as notified by KRC DISCOMs.

**C) Delay in Commencement of power supply on Account of Delay in Appropriate Open Access/GNA/GEOA Operationalization**

The responsibility of obtaining GNA/GEOA/appropriate Open Access shall be of the HPD prior to commencement of supply of power from the Project. Subsequent to grant of connectivity, in case there is a delay in grant/operationalization of GNA/GEOA/appropriate Open Access by the CTU/STU/appropriate nodal agency and/or there is a delay in readiness of the InSTS/ISTS substation at the Delivery Point, including readiness of the power evacuation and transmission infrastructure of the InSTS/ISTS network until SCSD of the Project, and it is established that:

- i. The HPD has complied with the complete application formalities as per Clause 3.7.7 above and as per the Detailed Procedure as issued by the CTU/STU/appropriate authority,
- ii. The HPD has adhered to the applicable Regulations/procedures in this regard as notified by the CERC/SERC/CEA, and
- iii. The delay in grant of connectivity/Open Access by the CTU/STU and/or delay in readiness of the InSTS/ISTS substation at the Delivery Point, including readiness of the power evacuation and transmission infrastructure of the ISTS network, is a factor attributable to the CTU/transmission licensee and is beyond the control of the HPD;

The above shall be treated as delays beyond the control of the HPD and SCSD 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 grant/operationalization of GNA/GEOA/appropriate Open Access. Decision on requisite extension on account of the above factor shall be taken by KRC DISCOMs.

In case of delay in commencement of power supply from the Project due to reasons beyond the reasonable control of the HPD, KRC DISCOMs may extend the SCSD after examining the issue on a case-to-case basis. In case of change in Project location(s) by the HPD, extension requests under this clause shall be dealt by KRC DISCOMs on case-to-case basis.

Further, in case of delay in commencement of power supply from the Project on account of reasons solely attributable to the HPD, resulting in any liquidated damages/penalty levied on the Buying Entity including Transmission charges under the GNA Regulations/appropriate Open Access Regulations and/or applicable regulation as notified by CERC/SERC as appropriate, such damages/penalty shall be passed on to the HPD.

#### **D) Early Commencement of Supply of Power**

The HPD shall be permitted for commencement of supply from full as well as part capacity of the Project even prior to the SCSD, subject to availability of transmission connectivity and General Network Access. Early commencement of power supply from the Project will be allowed solely at the risk and cost of the HPD, and first right of refusal for offtake of such power will be vested with the KRC DISCOMs. In case KRC DISCOMs agree to purchase power from such early part/full commencement of power supply prior to SCSD, such power will be purchased at the PPA tariff.

In case KRC DISCOMs do not agree to purchase such energy, early part/full commencement of power supply from the Project shall still be allowed and the HPD will be free to sell such energy to a third party until SCSD or the date of commencement of procurement of power from the Project as notified by KRC DISCOMs, whichever is earlier. However, early part/ full commencement of

power supply from the Project and subsequent energy procurement from the same shall be subject to the approval of KRC DISCOMs. Such intimation regarding consent to procure energy from early commencement shall be provided by KRC DICOMs within 30 days of receipt of the request being made by the HPD, beyond which it would be considered as deemed refusal.

### **3.10. CLEARANCES REQUIRED FROM THE STATE GOVERNMENT AND OTHER LOCAL BODIES**

The Hybrid Power Developers are required to obtain necessary clearances and permits as required for setting up the Wind-Solar Hybrid Power Projects, including but not limited to the following:

- i. No Objection (NOC)/Environmental clearance (if applicable) for the Project.
- ii. Forest Clearance (if applicable) for the land for the Project.
- iii. Any other clearances as may be legally required, in order to establish and operate the Project.

The above clearances, as applicable for the Project, shall be required to be submitted to KRC DISCOMs prior to commissioning of the Project. In case of any of the clearances as indicated above being not applicable for the said Project, the HPD shall submit an undertaking in this regard, and it shall be deemed that the HPD has obtained all the necessary clearances for establishing and operating the Project. Any consequences contrary to the above shall be the responsibility of the HPD.

### **3.11. EARNEST MONEY DEPOSIT (EMD) AND PERFORMANCE BANK GUARANTEES (PBG)**

**3.11.1.** The Bidder shall provide the following Earnest Money Deposit and Bank Guarantees to KRC DISCOMs in a phased manner as follows:

- I) **Earnest Money Deposit (EMD) of Rs. 10 Lakh / MW per Project** in the form of Bank Guarantee according to Format 6.3 A and valid for 12 months from the last date of bid submission, shall be submitted by the Bidder along with their bid, failing which the bid shall be summarily rejected. The Bank Guarantees towards EMD shall be issued

in the name of the Bidder / Lead Member of Bidding Consortium. In the event of encashment of EMD, the encashed amount shall include all applicable taxes.

The Bidder shall furnish the Bank Guarantees towards EMD from 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).

**Payment on Order Instrument (POI):** As an alternative to submission of EMD as above, the Bidder also has an option to submit a Letter of Undertaking issued by either of the following three organizations, viz. (i) Indian Renewable Development Agency Limited (IREDA) or (ii) Power Finance Corporation Limited or (iii) REC Limited. This Letter of Undertaking shall be issued as “Payment on Order Instrument” (POI), wherein the POI issuing organization undertakes to pay in all scenarios under which the EMD would be liable to be encashed by KRC DISCOMs within the provisions of RfS/PPA. This instrument would have to be furnished as per Format 6.3 B of the RfS, within the timelines as per Clause 3.11.1. i) above, for the amount and validity period as per those Clause 3.11.1. i) above.

The term “Bank Guarantee (BG) towards/ against EMD” occurring in the RfS shall be read as “Bank Guarantee (BG)/ Payment on Order Instrument (POI) towards/ against EMD”.

## II) Performance Bank Guarantee (PBG):

Bidders selected by KRC DISCOMs based on this RfS shall submit Performance Bank Guarantee for a value of @ Rs 25 Lakh/MW plus applicable GST Seven (7) days before signing of PPA, with a validity period up to 9 months from SCSD. The PBG shall be required to be issued in the name of the Company signing the PPA with KRC DISCOMs, i.e., either the successful Bidder or the SPV incorporated for implementing the Project. On receipt and after successful verification of the total Performance Bank Guarantee in the acceptable form, the BG submitted towards EMD shall be returned by KRC DISCOMs to the successful Bidder. Non-submission of PBG within the above-mentioned timelines shall be treated as follows:

- a. Delay up to 1 month from due date of submission of PBG: Delay charges @1% of the PBG amount + 18% GST per month levied on per day basis shall be paid by the HPD to KRC DISCOMs in addition to the PBG amount.
- b. Delay beyond 1 month from the due date of submission of PBG: The BG against EMD submitted by the HPD shall be encashed by KRC DISCOMs and the Project shall stand terminated. In case of delay in making full payment of above delay charges, the amount paid, if any until the above deadline, along with interest, shall be first reduced from the total amount due towards the delay charges and interest amount (i.e., rate of interest as stated below). Further, balance amount to be paid shall attract Interest rate @ one-year SBI MCLR rate /annum on pro-rata basis.
- c. For the purpose of calculation of the above delay charges, 'month' shall be considered as a period of 30 days. KRC DISCOMs has agreed to accept the PBG in the form of an unconditional and irrevocable Bank Guarantee instead of the cash deposit with the clear position intimated to the bidder that the PBG shall be encashable for being appropriated by KRC DISCOMs in terms of the guarantee as in the case of appropriation of the cash deposit lying with KRC DISCOMs.
- d. The format of the Bank Guarantees prescribed in the Formats 6.3 A (EMD) and 6.3 B (PBG) shall be strictly adhered to and any deviation from the above Formats shall result in rejection of the EMD/PBG and consequently, the bid. In case of deviations in the formats of the Bank Guarantees, the corresponding PPA shall not be signed.
- e. The successful bidders are required to sign PPA with the KRC DISCOMs within 1 month after the date of issue of LoA or date of MERC approval, whichever is later. Subsequent extension in this timeline shall be finalized and agreed by KRC DISCOMs. In case, KRC DISCOMs offers to execute the PPA with the Selected Bidder and if the Selected Bidder does not submit the requisite documents as per Section 3.12 or does not meet eligibility criteria upon submission of documents or does not execute the PPA within the stipulated time period, then the Bank Guarantee submitted towards EMD shall be forfeited by KRC DISCOMs and the selected Project shall stand cancelled. If the Successful Bidder fails to achieve Financial Closure as prescribed in Clause 3.15, KRC DISCOMs shall encash the Performance Bank Guarantee (PBG) unless the delay is caused due to a Force Majeure event. An extension for the attainment of the financial closure may however, be considered by KRC DISCOMs, on the request of the Wind-Solar Hybrid Power Generator, on advance payment of extension charges of Rs.10000/-

per day per MW (excluding 18% GST, if applicable). This extension will not have any impact on the Scheduled Commencement of Supply Date (SCSD).

- f. Subsequent to the completion of deadline for achieving financial closure, KRC DISCOMs shall issue notices to the HPDs who are not meeting the requirements of Financial Closure as per the RfS deadlines. The notice shall provide a period of 7 business days to the respective HPDs to either furnish the necessary documents or make the above-mentioned payment of Rs.10000/- per day per MW. In case of non-submission of either the requisite documents or the necessary amount upon expiry of the above-mentioned notice period of 7 days, KRC DISCOMs shall encash the PBG of the corresponding HPDs and terminate the PPA for the corresponding Project. The amount of Rs.10000/- per day per MW shall be paid by the HPDs in advance prior to the commencement of the said delay period and shall be calculated based on the period of delay as estimated by the HPD. In case of the HPD meeting the requirements of Financial Closure before the last date of such proposed delay period, the remaining amount deposited by the HPD shall be returned by KRC DISCOMs. Interest on account of delay in deposition of the above-mentioned charges or on any subsequent extension sought, shall be levied @ one-year SBI MCLR rate /annum on pro-rata basis. Any extension charges paid so, 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 of any delay in commissioning of the project beyond the Scheduled Commissioning Date, the amount as deposited above by the Power Producer shall not be refunded by KRC DISCOMs.
- g. The Bank Guarantees have to be executed on non-judicial stamp paper of appropriate value as per Stamp Act relevant to the place of execution.
- h. All expenditure towards execution of Bank Guarantees such as stamp duty etc. shall be borne by the Bidders/HPDs. Any Bank Guarantee or amendment to be submitted as part of the bidding process / contract execution, shall be effective only when the BG issuance message is transmitted by the issuing bank through SFMS to Axis Bank IFSC: UTIB0000028, Bank Address: Mangal Mahal Turner Road, Bandra (West), Mumbai., Client Name: Mindspace Business Parks Pvt. Ltd. and a confirmation in this regard is received by Mindspace Business Parks Pvt. Ltd.”.

- i. To facilitate the Bidders to submit the Bank Guarantee as per the prescribed format and in line with the requirements, checklist at **Annexure-B** has been attached. Bidders are advised to take note of the above checklist while submitting the Bank Guarantees
- j. After the bidding process is over, KRC DISCOMs shall release the Bank Guarantees towards EMD of the unsuccessful Bidders/project capacities within 15 days after conducting the e-reverse auction. The PBGs of the HPDs shall be returned to the HPDs within 45 days of successful commencement of supply as per terms of PPA, after taking into account any liquidated damages due to delays in commissioning as per Clause 3.9.
- k. The selected Bidders are required to sign PPA with KRC DISCOMs in line with the timelines as mentioned in Clause 3.12. In case, the selected Bidder refuses to execute the PPA within the stipulated time period, the Bank Guarantee equivalent to the amount of the EMD shall be encashed by KRC DISCOMs from the Bank Guarantee available with KRC DISCOMs (i.e., either EMD or PBG) as liquidated damages not amounting to penalty, and the selected Project(s) shall stand cancelled and the selected Bidder expressly waives off its rights and objections, if any, in that respect.
- l. KRC DISCOMs may release the Bank Guarantees submitted by HPD as 'Performance Bank Guarantee (PBG)', if HPD is able to replace the same with "Payment on Order instrument" / Letter(s) of Undertaking to pay in case situation of default of generator in terms of Power Purchase Agreement (PPA) arises, from Indian Renewable Energy Development Agency Limited (IREDA) or Power Finance Corporation Limited (PFC) or REC Limited (REC). HPD can seek such Letters(s) by offering due security to the above mentioned three non-banking financial institutions (IREDA, PFC & REC) for seeking replacement of their Bank Guarantees already pledged with the implementing agencies. In such case these instruments would be considered as same as PBG.

### **3.12. FORFEITURE OF EMD**

The BG towards EMD shall be encashed and forfeited to KRC DISCOMs in following cases:

- I) If the Bidder withdraws or varies the bid after due date and time of bid submission and during the validity of the bid;
- II) In case, KRC DISCOMs offers to execute the PPA with the Selected Bidder and if the Selected Bidder does not submit the requisite documents as per Clause 3.13 or does not execute the PPA within the stipulated time period;

- III) If after date of issue of LOA, it is found that the documents furnished by the Bidder during RfS are misleading or misrepresented in any way and that relevant facts have been suppressed; and
- IV) If the bidder fails to furnish required Performance Bank Guarantee in accordance with Clause 3.11.

### **3.13. POWER PURCHASE AGREEMENT**

**3.13.1.** Power Purchase Agreement shall be executed between KRC DISCOMs and successful bidder or its 100% subsidiary Special Purpose Vehicle (SPV), in the format provided by KRC DISCOMs along with this RfS.

The PPA shall be signed with the tariff rate for the contracted power as quoted by the bidder in the “Price Bid” or that after e-Reverse Auction, whichever is lower. The PPA shall be signed within 1 month from date of issue of LoA or the adoption of Tariff by MERC, whichever is later. 3 separate PPAs will be executed between the respective Distribution Licensee and successful bidder or its 100 % SPV for the awarded capacity. The PPA shall be valid for a period of 20 years from Scheduled Commencement of Supply Date (SCSD) in case of proposed/new wind solar hybrid power projects or for a period of 20 years from the date of execution of PPA for existing wind solar hybrid power projects based on the terms, conditions and provisions of the RfS, irrespective of dates of early part-commissioning or early full commissioning.

Note: 3 separate PPAs will be executed between KRC DISCOMs’ 3 Distribution Licensee with the successful HPD as per table below at pro-rata basis. However, the following capacity figures are indicative and final PPA quantum and with individual HPD may vary.

<b>Name of Distribution Licensee</b>	<b>Solar Capacity</b>	<b>Wind Capacity</b>
MBPPL	14.00	14.00
GEPL	7.00	7.00
KRCIPPL	9.00	9.00

The final project configuration, adding up to the cumulative capacity awarded to the bidder may be intimated to KRC DISCOMs at the time of signing of PPA, which shall remain unchanged subsequent to signing of PPA. However, the HPD will be allowed

to change the location of the Project(s) until the achievement of Financial Closure, i.e., till 12 months from execution of PPA without any change in the project configuration. Delays in connectivity or appropriate Open Access for the Project(s) on account of such changes in Project locations, which differ from the details provided in the Covering Letter, shall be at the risk of the Successful Bidder. Also, the wind and solar capacity allotted to each successful Bidder would be at pro-rata basis of the cumulative Solar capacity and Wind capacity.

**3.13.2.** The Performance Bank Guarantee as per Clause 3.11 shall be submitted by the HPD prior to signing of PPA. Before signing of PPA between KRC DISCOMs and the HPDs, KRC DISCOMs will verify the documents furnished by the Bidders at the time of submission of response to RfS including the shareholding of the Project Company along with a copy of complete documentary evidence supported with the documents.

If at this stage it is found that the documents furnished by the HPDs are false / misleading or misrepresented in any way, then the provisions contained in this RfS will be applicable.

**3.13.3.** Before signing of PPA between Distribution Licensees of KRC DISCOMs and the selected Bidders, KRC DISCOMs will verify the documents furnished by the Bidders at the time of submission of response to RfS including the shareholding of the Project Company along with a copy of complete documentary evidence supported with the original documents. Bidders will also be required to furnish the documentary evidence for meeting the RfS Qualification requirements. KRC DISCOMs will be obliged to buy the entire power as per generation schedule, to be provided by the HPDs subject to limitations as per Clause 3.7.3, required under grid Regulations. However, the HPDs are required to achieve the minimum CUF as stipulated in clause 3.7.1.

**3.13.4.** The HPDs will be free to reconfigure and repower their Projects from time to time during the PPA duration. However, KRC DISCOMs will be obliged to buy power only within the Capacity Utilization Factor (CUF) range laid down in Power Purchase Agreement (PPA), and any shortfall in generation shall be dealt as per the relevant clause of the PPA. The developer may upgrade and repower their plants during the PPA period at its own risk and cost; and participate in subsequent bids to the extent of their untied capacity.

**3.13.5.** The HPDs are free to operate their projects after expiry of the 20 years of PPA period if other conditions such as land lease, etc., permit. However, any extension of the PPA period beyond 20 years shall be through mutual agreements between the HPD and KRC DISCOMs, as the case may be, as approved by the Appropriate Commission, provided that the arrangements with the land and infrastructure owning agencies, the relevant transmission utilities and system operators permit operation of the Project beyond the initial period of 20 years.

#### **3.14. LAND ARRANGEMENTS FOR THE PROJECT**

**3.14.1.** The Bidder shall identify the 100% (hundred per cent) land at the time of bid submission. The Successful Bidder shall submit documents / Lease Agreement to establish possession and right to use 100 % (hundred per cent) of the required land in the name of the successful bidder/SPV for a period not less than the complete term of PPA, one month before SCSD. At the time of Bid submission, the Bidder shall submit following details for identification of land

- i) Sworn affidavit from the authorized person of the successful bidder listing the details of the land and certifying total land required for the project.
- ii) Copy of key plan drawing showing survey number, plot number, point of installation of Wind-Solar Hybrid project with capacity.

**3.14.2.** In case of leasing of Government land, appropriate state regulations regarding tenure of lease agreement shall be applicable. In both cases where the lease agreements are for a period shorter than the PPA Term, solely on account of applicable State Governmental regulations, the HPD shall be required to submit an undertaking that the lease agreements shall be appropriately extended in line with the Term of the PPA, when required. Wherever leasing of private land is involved, the lease should allow transfer of land to the lenders or KRC DISCOMs, in case of default of the HPD. Further, in case of sub-leasing of land from an entity other than the Government, the lessor and lessee shall submit letters in their respective letterheads addressed to each another, confirming handing over and taking over the said land parcel(s), respectively.

**3.14.3.** The above data shall be submitted along with 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, on or before the SCSD.

**3.14.4.** It is further to be noted that part/full commissioning of the Project will not be allowed until demonstration of land possession for the corresponding capacity being commissioned.

## **3.15. FINANCIAL CLOSURE OR PROJECT FINANCING ARRANGEMENTS**

**3.15.1.** The HPD shall report 100 % tie-up of Financing Arrangements for the project within Twelve (12) months from the date of signing of PPA. Accordingly, the successful bidder shall furnish the following documents within Twelve (12) months from the date of signing of PPA. the HPD shall submit a certificate/ necessary document from all financing agencies regarding the tie-up of 100% of the funds indicated for the Project, including arrangements of funds in the form of Equity. Accordingly, the successful bidder shall furnish documents at the time of reporting Financial Closure, i.e., Tie-up letter of 100 % Financing Arrangements: internal resources and/or tie up funds through a bank/ financial institution by way of a legally binding agreement. In case of legally binding agreement not available at that time, sanction letter for commitment of such finances shall also be considered. The successful bidder shall submit the undertaking that legally binding agreement shall be submitted within two months from the date of financial closure.

- i. For internal resources, Copy of Board Resolution, Audited/Certified Balance sheet, Profit & Loss Account Statement, Bank Statement and Cash Flow Statement in support of availability of Internal resources of the Project Company and of the Company other than Project Company (in case the required funding will be raised from Company other than Project Company)
- ii. Copy of Final Detailed Project Report (DPR).
- iii. Connectivity Agreement with STU; and
- iv. Copy of Agreement/ MOU entered into / Purchase Order with acceptance, for the supply of Plants and Equipment;
- v. Ownership of the HPD: Latest Shareholding Pattern of the Project Company certified by Chartered Accountant.
- vi. Activity wise final schedule for meeting timelines/milestones as per RfS, Material Procurement, final date/month of delivery of Solar Modules/Panels and WTGs at site, Country of Import, if not domestically procured – Solar Modules/Panels, Start and Completion of construction activities etc.
- vii. Self-Undertaking for identification of 100% land for Solar Project as per the format attached as Annexure-F

**3.15.2.** In case of delay in achieving above condition as may be applicable, KRC DISCOMs shall encash Performance Bank Guarantees and shall remove the project from the list of the selected projects, unless the delay is on account of Force Majeure.

**3.15.3.** An extension can however be considered by KRC DISCOMs on the sole request of HPD, on payment of Rs. 10,000/- per day per MW (plus 18% GST, if applicable) as extension charges. This extension will not have an impact on the Scheduled Commissioning Date of the Project. Subsequent to the completion of deadline for achieving financial closure, KRC DISCOMs shall issue notices to the HPDs who are not meeting the requirements of Financial Closure as per the RfS deadlines. The notice shall provide a period of 7 business days to the respective HPDs to either furnish the necessary documents or make the above-mentioned payment of Rs. 10,000/MW/day. In case of non-submission of either the requisite documents or the necessary amount upon expiry of the above-mentioned notice period of 7 days, KRC DISCOMs shall encash the PBG of the corresponding HPDs and terminate the PPA for the corresponding Project. The amount of Rs. 10,000/MW/day shall be paid by the HPDs

in advance prior to the commencement of the said delay period and shall be calculated based on the period of delay as estimated by the HPD. In case of the HPD meeting the requirements of Financial Closure before the last date of such proposed delay period, the remaining amount deposited by the HPD shall be returned by KRC DISCOMs. Interest on account of delay in deposition of the above-mentioned charges or on any subsequent extension sought, shall be levied @ one-year SBI MCLR rate /annum on pro-rata basis. Any extension charges paid so, 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.

In addition to the above, the compliance of Financial Closure shall entail fulfilment of the following conditions:

- i. Identification of 100% of the land for the project.
- ii. Submission of the details of all planned/proposed solar panels, inverters and wind turbine generators, along with necessary purchase order/agreements for the project at least 14 days prior to the scheduled financial closure date.

**3.15.4.** 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. Change of land for the projects, including the State where the Project is located, is allowed prior to fulfilment of Financial Closure, under prior intimation to KRC DISCOMs.

**3.15.5.** Checklist of documents to be submitted at this stage is provided at **Annexure-D** of the RfS. HPDs will have to submit the required documents to KRC DISCOMs at least 14 days prior to the scheduled Financial Closure date. In case of delay in submission of documents mentioned above, KRC DISCOMs shall not be liable for delay in verification of documents and subsequent delay in Financial Closure.

## **3.16. MINIMUM PAID UP SHARE CAPITAL TO BE HELD BY PROJECT PROMOTER**

- i. The Bidder shall provide complete information in their bid in reference to RfS about the promoters and upon issuance of LOA, the HPD shall indicate its shareholding in

the Company indicating the controlling shareholding, before signing of PPA with KRC DISCOMs.

- ii. No change in the shareholding of the Bidding Company or Bidding Consortium shall be permitted from the date of submission of response to RfS till the execution of the PPA. However, in case the Project is being set up by a listed Company, this condition will not be applicable. Following shall not be considered as change in shareholding as mentioned above:
  - a. Infusion of fresh equity capital amongst the existing shareholders/promoters at the time of Bid submission to meet equity requirements.
  - b. Conversion of Compulsory Convertible Debentures (CCDs), Compulsorily Convertible Preference Share (CCPs), etc., already issued to existing shareholders.
  - c. Death, marriage, Divorce, minor attaining major status (any legal heir who was minor at the time of signing of PPA), insolvency, insanity of existing shareholders.
  - d. Transfer of shares within the members of Promoter Group.
  - e. Transfer of shares to Investor Education and Protection Fund (IEPF).
  - f. Issue of Bonus Shares
- iii. In case of Projects being implemented through SPVs: The successful Bidder, if being a single company, shall ensure that its shareholding in the SPV/project company executing the PPA, shall not fall below 51% at any time prior to 1 (one) year after the SCSD, except with the prior approval of KRC DISCOMs. In the event the successful bidder is a consortium, then the combined shareholding of the consortium members in the SPV/project company executing the PPA, shall not fall below 51% at any time prior to 1 (one) year after SCSD. However, in case the Project is being set up by a listed Company, this condition will not be applicable.
- iv. In case of the Successful Bidder itself executing the PPA, 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 1 (one) year after the SCSD, except with the prior approval of KRC DISCOMs. In this case it shall also be essential that the Successful Bidder shall provide the information about its owner or promoters and their shareholding to KRC

DISCOMs before signing of the PPA with KRC DISCOMs. However, in case the Project is being set up by a listed Company, this condition will not be applicable.

- v. In case of Companies having multiple promoters (but none of the shareholders having not less than 51% of voting rights and paid-up share capital), it shall be considered as a Company under joint control. In such cases, the shareholding pattern in the Company as submitted at the time of bidding, shall be maintained for a period of (01) one year after SCSD.
- vi. Any change in the shareholding after the expiry of 1 year from SCSD can be undertaken under intimation to KRC DISCOMs. Transfer of controlling shareholding within the same group of Companies will however be allowed after SCSD, with the permission of KRC DISCOMs, subject to the condition that, the management control remains within the same group of companies.
- vii. In case, the financial eligibility and qualification is attained through financials of Parent Company, then the shareholding pattern of the Parent Company shall not change till the achievement of Financial Closure and the shareholding pattern of the bidding entity shall not change till one year from the date of SCSD. However, in case Parent company is a listed company, then shareholding pattern of promoters of Parent Company shall not be changed.
- viii. In the event the HPD is in default to the lender(s), lenders shall be entitled to undertake “Substitution of Promoter” in concurrence with KRC DISCOMs.
- ix. 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 +18% GST per Project per Transaction as Facilitation Fee (non-refundable) shall be deposited by the developer to KRC DISCOMs. However, the new entity should be at least of the same financial strength as the Successful Bidder.

### **3.17. STRUCTURING OF THE BID SELECTION PROCESS**

Single stage, double envelope bidding followed by e-reverse auction has been envisaged under this RfS. Bidders have to submit both Technical bid and Financial bid

together in response to this RfS online. The preparation of bid proposal has to be in the manner described in Clause 3.20 and 3.21.

### **3.18. INSTRUCTIONS TO BIDDERS FOR STRUCTURING OF BID PROPOSALS IN RESPONSE TO RfS**

The Bidder including its Parent, Affiliate or Ultimate Parent or any Group Company shall submit single response to RfS. Detailed Instructions to be followed by the bidders for online submission of response to RfS as stated at **Annexure – C**.

Submission of bid proposals by Bidders in response to RfS shall be in the manner described below:

1. Covering Letter as per **Format 6.1**.
2. In case of a Bidding Consortium, a Power of Attorney in favour of the Lead Member issued by the other Members of the Consortium shall be provided in original as per format attached hereto as **Format 6.2**.

In the event any Member of the Bidding Consortium (other than Lead Member) is a foreign entity, it may submit Board Resolutions in place of Power of Attorney for the purpose of fulfilling the requirements under this clause. Provided that such Board Resolutions shall be supported by an unqualified opinion issued by the legal counsel of such foreign entity stating that the Board Resolutions are in compliance with the applicable laws of the respective jurisdictions of the issuing Company and the authorizations granted therein are true and valid.

For meeting the financial eligibility criteria, if the data is provided by the Bidder in a foreign currency, equivalent Indian Rupees of Net Worth and other financial parameters will be calculated by the Bidder using Reserve Bank of India's reference rates prevailing on the date of closing of the accounts for the respective financial year. In case of any currency for which RBI reference rate is not available, Bidders shall convert such currency into USD as per the exchange rates prevailing on the relevant date and used for such conversion, as certified by their banker. After such conversion, Bidder shall follow the procedure/ submit document as elaborated above.

3. Earnest Money Deposit (EMD) in the form as per **Format 6.3 A**.
4. Performance Bank Guarantee (to be submitted before signing of PPA as specified in Section 3.10) in the form as per **Format 6.3 B**.

5. Board Resolutions, as per prescribed formats enclosed as **Format 6.4** duly certified by the Company Secretary or the Director of the relevant Bidder, as applicable to the Bidder and mentioned hereunder:
  - a. Board resolution from the Bidding Company or the Lead Member of the Consortium, as the case may be, in favour of the person signing the response to RfS and in the event of selection of the Projects, to sign the PPA with KRC DISCOMs.  
Also, Board Resolution from each member of the Consortium in favour of the person signing Consortium Agreement.
  - b. Board Resolution from the Bidding Company committing one hundred percent (100%) of the equity requirement for the Project / Board Resolutions from each of the Consortium Members together in aggregate committing to one hundred percent (100%) of equity requirement for the Project (in case of Bidding Consortium); and
  - c. Board Resolutions from each of the Consortium Members and Lead member contributing such additional amount over and above the percentage limit (specified for the Lead Member and other member in the Consortium Agreement) to the extent becoming necessary towards the total equity share in the Project Company, obligatory on the part of the Consortium pursuant to the terms and conditions in the Consortium Agreement.
6. In case of a Consortium, the Consortium Agreement between the Members in the Consortium as per **Format 6.5** along with Board resolution from each Member of the Consortium for participating in Consortium.
7. Bidder shall ensure that the technology to be adopted shall be commercially established technology as per the type certified wind turbine models listed in Revised List of Models and Manufactures (RLMM) (Refer NIWE website) issued by MNRE and for solar modules, Bidder shall ensure that the technology to be adopted shall be commercially established technology or in accordance with MNRE's "Approved Models and Manufacturers of Solar PV modules (Requirements for Compulsory Registration) Order, 2019" as amended from time to time, whichever is applicable. Final details of the same shall be submitted prior to at least 30 days before SCSD.

8. Tie-up of Financing Arrangements for the projects within 12 months from the date of execution of PPA.
9. Format of Financial Requirement as per **Format 6.6**, along with the certificate from practicing Chartered Accountant/Statutory Auditors showing details of computation of the financial credentials of the Bidder.
10. Undertaking regarding no wilful default and no major litigation pending as per **Format 6.7**.
11. Format for Disclosure as per **Format 6.8**.
12. Format for Commitment to Financial Closure as per **Format 6.9**.
13. Attachments

(i) Memorandum of Association and Articles of Association need to be attached along with the bid. The bidder should also highlight the relevant provision, which highlights the objects relating to Power/ Energy/ Renewable Energy/ Solar/Wind Power plant development.

- In case, there is no mention of the above provisions in the MoA/AoA of the bidding company, the same has to be amended and submitted prior to signing of PPA, if the bidder is selected as Successful bidder.
- If the selected bidder wishes to execute the project through a Special Purpose Vehicle (SPV), the MoA/AoA of the SPV highlighting the relevant provision, which highlights the objects relating to Power/ Energy/ Renewable Energy/Solar/Wind Power plant development has to be submitted prior to signing of PPA.

(ii) Certificate of Incorporation of Bidder / all members of Bidding Consortium.

(iii) A certificate of shareholding of the Bidder, its Parent and Ultimate Parent (if any) and their details, duly certified by a practicing Chartered Accountant/ Company Secretary/Appropriate authority as on a date not earlier than 30 days prior to the last date of bid submission. KRC DISCOMs reserves the right to seek additional information relating to shareholding in promoter companies, their parents/ ultimate parents and other group companies to satisfy themselves that RfS conditions have been complied with and the bidder will ensure submission of the same within the required time lines.

- (iv) Certified copies of annual audited accounts for the last financial year, i.e. FY 2022-23 Final (in case Final not available then provisional) audited accounts, OR in case the Bidder is a newly formed company, supported by documentary evidence of its recent formation at RoC, then the certificate issued by a Chartered Accountant along with certified copies of Balance Sheet, Profit & Loss Account, Schedules and Cash Flow Statement supported with bank statements as on the date at least 7 days prior to the due date of bid submission (if applicable), shall be required to be submitted. Foreign Bidders shall be required to submit their audited annual accounts of previous two years as per relevant laws / acts of their country of origin and the same shall be duly certified by a practicing Chartered Accountant of India;
- (v) Certificate from Chartered Accountants, certifying the Networth of the bidder per MW of quoted capacity as per Section 2 of the Companies Act 2013 as on date of financial year ending i.e., 31.03.2024 or 31.12.2023 as the case may be, or in case the Bidder is a newly formed company, supported by documentary evidence of its recent formation at ROC or in case the networth of the Bidder is not meeting the criteria as per Clause 3.6, then the certificate issued by a Chartered Accountant computing net worth based on certified copy of Balance Sheet, Profit & Loss account, Schedules and cash flow statement as on latest available date supported with bank statement shall be required to be submitted.
- (vi) In case a bidder submits the Net-worth credentials of its Parent / Affiliate, an undertaking from such Parent / Affiliate shall be submitted, stating that in case the bidder(s) fails to contribute required equity funding and performance bank guarantee, the same shall be done by such Parent / Affiliate in line with Clause 3.6 of the RFS.
- (vii) Details of all types of securities/instruments, which are pending conversion into equity whether optionally or mandatorily.
- (viii) Bidder shall be additionally required to furnish the break-up of the Estimated Project Cost as per Format 6.11 A (separately for each project) as part of the response to RfS.
- (ix) Activity wise Tentative schedule for meeting timelines/milestones as per RfS at the time of bid submission such as Grid Connectivity, Material Procurement, tentative

date/month of procurement of Wind turbines/Solar Modules/Panels, Country of Import, if not domestically procured – Wind Turbines/Solar Modules/Panels, Start and Completion of construction activities etc. However, if any revision in given schedule, Bidder shall submit it at the time of Financial Closure.

### **3.19. IMPORTANT NOTES AND INSTRUCTIONS TO BIDDERS**

1. Wherever information has been sought in specified formats, the Bidders shall fill in the details as per the prescribed formats and shall refrain from any deviations and referring to any other document for providing any information required in the prescribed format.
2. The Bidders shall be shortlisted based on the declarations made by them in relevant provisions of the RfS. The documents submitted online will be verified before signing of PPA.
3. If the Bidder/ Member in a Bidding Consortium conceals any material information or makes a wrong statement or misrepresents facts or makes a misleading statement in its response to RfS, in any manner whatsoever, KRC DISCOMs reserves the right to reject such response to RfS and/or cancel the Letter of Award, if issued, and the Bank Guarantee provided up to that stage shall be encashed. Bidder shall be solely responsible for disqualification based on their declaration in the submission of response to RfS.
4. If the event specified at (c) above is discovered after the Effective Date of PPA, consequences specified in PPA shall apply.
5. Response submitted by the Bidder shall become the property of the KRC DISCOMs and KRC DISCOMs shall have no obligation to return the same to the Bidder. However, the EMDs submitted by unsuccessful Bidders shall be returned as specified in Clause 3.9.
6. All documents of the response to RfS (including RfS, PPA and all other documents uploaded on DEEP portal as part of this RfS) submitted online must be digitally signed by the person authorized by the Board as per Format 6.4.
7. The response to RfS shall be submitted as mentioned in Clause 3.20. No change or supplemental information to a response to RfS will be accepted after the scheduled date and time of submission of response to RfS. However, KRC DISCOMs reserves the right to seek additional information from the Bidders, if found necessary, during the course of evaluation of the response to RfS.

8. The Bidder shall make sure that the correct, valid and operative Pass-Phrase to decrypt the relevant Bid-part is submitted into the ‘Time Locked Electronic Key Box (EKB)’ after the deadline of Bid submission, and before the commencement of the Online Tender Opening Event (TOE) of Technical bid.
9. All the information should be submitted in English language only. In case of foreign bidders having documents in other than English language, then the documents shall be translated in English language by certified translator and submitted.
10. Bidders shall mention the name of the contact person and complete address of the Bidder in the covering letter.
11. Response to RfS that are incomplete, which do not substantially meet the requirements prescribed in this RfS, will be liable for rejection by KRC DISCOMs.
12. Response to RfS not submitted in the specified formats will be liable for rejection by KRC DISCOMs.
13. Bidders delaying in submission of additional information or clarifications sought will be liable for rejection by KRC DISCOMs.
14. Non-submission and/or submission of incomplete data/ information required under the provisions of RfS shall not be construed as waiver on the part of KRC DISCOMs of the obligation of the Bidder to furnish the said data/information unless the waiver is in writing.
15. Only MERC and/ or Bombay High Court shall have exclusive jurisdiction in all matters pertaining to this RfS.
16. All the financial transactions to be made with KRC DISCOMs including submission of delay charges, and any additional charges (if required), shall attract 18% GST on each transaction, irrespective of the same being mentioned in the RfS/PPA.

### **3.20. NON-RESPONSIVE BID**

1. The electronic response to RfS submitted by the bidder along with the documents submitted online to KRC DISCOMs shall be scrutinized to establish “Responsiveness of the bid”. Each bidder’s response to RfS shall be checked for compliance with the submission requirements set forth in this RfS.
  - a. Any of the following conditions shall cause the Bid to be “Non-responsive”:

2. Non-submission of the requisite cost of RfS and/or processing fee as mentioned in the Bid Information Sheet;
3. Non-submission or partial submission of EMD in acceptable form along with RfS document;
4. Response to RfS (offline as well as online) not received by the due date and time of bid submission;
5. Non-submission of correct, valid and operative Pass-Phrases for both Technical and Financial Bid (Price Bid) Parts after the deadline of Bid submission, and before the commencement of the Online Tender Opening Event (TOE) of Technical bid;
6. Non-submission of the original documents mentioned at Section 3.20 by due date and time of bid submission;
7. Non submission of the Original Bank Guarantee and/or DDs/Pay order against Cost of RfS Document and/or DDs/Pay order against bid processing fee;
8. Any indication of the tariff quoted, in any part of response to the RfS, other than in the financial bid;
9. Data filled in the Electronic form of financial bid (Second envelope), not in line with the instructions mentioned in the same electronic form;
10. Bidder or any of its Affiliates is a wilful defaulter to any lender;
11. The Bidder & any of its Affiliates including any Consortium Member & any of its Affiliates, their directors should not have been barred or included in the blacklist by any Government Agency or Authority in India, the Government of the jurisdiction of the Bidder or Members where they are incorporated or the jurisdiction of their principal place of business, any international financial institution such as the World Bank Group, Asian Development Bank, African Development Bank, Inter-American Development Bank, Asian Infrastructure Investment Bank, etc., or the United Nations or any of its agencies.
12. Major litigation pending or threatened against the bidder or any of its Affiliates, which are of a nature that could cast a doubt on the ability or the suitability of the bidder to undertake the Project;
13. In case it is found that the Bidding Company including Ultimate Parent Company / Parent Company/ Affiliate / Group Companies have submitted more than one response to this RfS, then all these bids submitted shall be treated as non-responsive and rejected.
14. Conditional bids shall be summarily rejected.

**15.** In any of the above cases, the bid shall not be considered for bid opening and evaluation process. Further, in case of (b), such bidder will be debarred from participating in any of the tenders issued by KRC DISCOMs, for a period of 6 (six) months, starting from the last date of bid submission of this RfS.

### **3.21. METHOD OF SUBMISSION OF RESPONSE TO RfS BY THE BIDDER**

1. Documents to be submitted Offline (in Original) within 3 days from the bid submission date
2. The bidder has to submit the documents in original as part of Response to RfS to the address mentioned in Bid Information Sheet within 3 days from the bid submission date.
3. Bidding Envelope: Superscribed as “Bidding Envelope containing Covering Envelope,” at the top of the Envelope and “Name & Address of the Bidder” on the left-hand side bottom must contain the following:
4. DD/Pay order or NEFT/RTGS/ details towards Cost of RfS Document and Bid Processing Fee as mentioned in Bid Information Sheet.
5. Bank Guarantee towards EMD as mentioned in the Bid Information Sheet (as per Format 6.3 A). One EMD may be submitted for the cumulative capacity quoted by the bidder, or individual EMDs may be submitted for each Project.
6. Covering Letter as per Format 6.1
7. Power of Attorney as per Format 6.2 (if applicable)
8. Board Resolution as per Format 6.4
9. Consortium Agreement as per Format 6.5 (if applicable)
10. Letter for Disclosure, as per Format 6.6;
11. Submission of Financial Bid as per Format 6.7
12. Format regarding timelines of the milestones as per Format 6.8
13. Bidders’ Declaration Format associated with Implementation of ALMM Order (Annexure-E)
14. Pass-Phrase Envelope-1: Containing Pass Phrase for Technical Bid duly stamped and signed by the authorized signatory in sealed envelope.
15. Pass-Phrase Envelope-2: Containing Pass Phrase for Financial Bid duly stamped and signed by the authorized signatory in sealed envelope.

**No documents will be accepted in person, on or before the date of bid submission.**

DDs/Pay Orders against the cost of RfS document and bid processing fee may be submitted in person or via post/courier, subsequent to expiry of bid submission deadline and upto the date as on three (3) working days after the deadlines

Bank Guarantee against EMD needs to be submitted in both online and offline modes. The Bidders will be required to submit the bank guarantee, either in person or through post, at the office of KRC DISCOMs until the date as on 3 working days after the closing date of bid submission. The 3-day duration will be counted from the date of bid submission.

Note: In all cases, the Bank Guarantee against EMD and DDs against the above fee (if applicable), shall be issued on or before the bid submission deadline. These instruments issued after the expiry of the deadline will be summarily rejected.

For e.g., if the bid submission deadline is 18:00 hrs on 05.11.2024, the above deadline will expire at 18:00 hrs on 08.11.2024. In case of the above deadline being a holiday, the next working day in KRC DISCOMs will be the deadline for submission of Bank Guarantees and/or DD/Pay Order against Cost of RfS Document and Bid Processing Fee.

The bidding envelope shall contain the following sticker: (illustration)

<b><i>Response to RfS for Setting up of Grid Connected Wind-Solar Hybrid Power projects in India</i></b>	
<i>RfS Reference No.</i>	
<i>Submitted by</i>	<i>(Enter Full Name and Address of the Bidder)</i>
<i>Authorised Signatory</i>	<i>(Signature of the Authorised Signatory)</i> <i>(Name of Authorised Signatory)</i> <i>(Stamp of the Bidder)</i>
<i>Bid Submitted to</i>	<i>(BID SUBMISSION CONTACT APPOINTED by KRC DISCOMs)</i> <i>To be Filled</i>

#### **A) Documents to be submitted Online**

Detailed instructions to be followed by the Bidders for online submission of response to RfS as stated as **Annexure-C**. The Bidders shall strictly follow the instructions mentioned in the electronic form in respective technical bid and financial bid while filling the form.

**If the Bidder has submitted bid online and fails to submit the Bank Guarantee for requisite amount and/or DDs/Pay order against cost of RfS Document and bid processing fee offline within 2 working days from last date of bid submission, then the same shall be treated as incomplete bid and Cost of RfS, Processing fee submitted shall be encashed and the EMD(s) shall be returned.**

All documents of the response to RfS submitted online must be digitally signed and uploaded on the website,

<https://www.mstcecommerce.com/auctionhome/ppa/index.jsp>, which should contain the following:

##### **1. “Technical Bid (First Envelope)”**

The Bidder shall upload single technical bid containing the scanned copy of following documents duly signed and stamped on each page by the authorized signatory as mentioned below.

- I) Formats- 6.1, 6.2 (if applicable), 6.3 A, 6.4, 6.5 (if applicable), 6.6, 6.8 and 6.9;
- II) All supporting documents regarding meeting the eligibility criteria;
- III) Scanned Copies of NEFT/RTGS/DD/Pay order details towards Cost of RfS Document as mentioned in Bid Information Sheet;
- IV) Scanned Copies of requisite amount of Bank Guarantee towards EMD as mentioned in the Bid Information Sheet.

**The Bidder will have to fill the Electronic Form provided at the DEEP portal as part of Technical Bid.**

**Submission of Pass-phrases:** In line with Clause 3.20.h above, and Annexure-D, the Bidder shall be required to submit the Pass-Phrase to decrypt the relevant Bid-part is submitted into the ‘Time Locked Electronic Key Box (EKB)’ after the deadline of Bid submission, and before the commencement of the Online Tender Opening Event (TOE) of Technical bid.

## **2. “Financial Bid (Second Envelope)”**

Bidders shall submit the single Financial Bid containing the scanned copy of following document(s):

- (i) Covering letter as per Format-6.11 of the RfS document;
- (ii) Break-up of Estimated Project Cost as per Format 6.11 A of the RfS document;

**Only a single tariff bid for all the Projects shall have to be filled online in the Electronic Form provided at the DEEP portal. The instructions mentioned in the Financial Bid Electronic Form have to be strictly followed without any deviation; else the bid shall be considered as non-responsive.**

### **Important Note:**

- I) The Bidders shall not deviate from the naming and the numbering formats mentioned above, in any manner.
- II) In each of the Envelopes, all the documents enclosed shall be indexed and flagged appropriately, with the index list indicating the name of the document against each flag.
- III) All the Envelopes shall be properly sealed with the signature of the Authorized Signatory running across the sealing of the envelopes.
- IV) In case the Bidder submits the online documents on DEEP portal within the bid submission deadlines and fails to submit the offline documents in the office of KRC DISCOMs within the bid submission deadlines, the online bid of the Bidder shall not be opened and shall be ‘archived’ on the DEEP portal. Similarly, bids submitted offline but without any online submission on DEEP portal shall not be opened and the EMD shall be returned to the respective bidder.
- V) **In case of submission of Bank Guarantee against EMD online on or before the bid submission deadline, and non-submission of the hard copy of the Bank Guarantee to KRC DISCOMs within the date as on 2 working days subsequent to bid submission deadline, the respective bidder will be debarred from participating in any of the tenders issued by KRC DISCOMs, for a period of 6 (six) months, starting from the last date of bid submission of this RfS.**

### **3.22. VALIDITY OF THE RESPONSE TO RfS**

The Bidder shall submit the response to RfS, which shall remain valid up to one hundred eighty (180) days from the last date of submission of response to RfS (“Bid

Validity"). KRC DISCOMs reserves the right to reject any response to RfS, which does not meet the aforementioned validity requirement.

### **3.23. BID PREPARATION COST**

The Bidder shall be responsible for all the costs associated with the preparation of the response to RfS and participation in discussions and attending pre-bid meeting(s), etc. KRC DISCOMs shall not be responsible in any way for such costs, regardless of the conduct or outcome of the bid process.

### **3.24. CLARIFICATIONS/ PRE-BID MEETING/ ENQUIRIES/ AMENDMENTS**

- I) Clarifications / Doubts, if any, on RfS document may be emailed and/or through DEEP portal. The format for submission of clarifications is available on the portal.
- II) KRC DISCOMs will make effort to respond to the same in the Pre-Bid Meeting to be held as mentioned in the Bid Information Sheet. A compiled list of such questionnaire and KRC DISCOM's response will be uploaded in the website <https://www.mstcecommerce.com/auctionhome/ppa/index.jsp>. If necessary, amendments, clarifications, elaborations shall be issued by KRC DISCOMs, which will be notified on KRC DISCOMs/DEEP Portal web site. No separate reply/intimation will be given for the above, elsewhere.
- III) A Pre-Bid Meeting shall be held as mentioned in the Bid Information sheet (venue to be notified later on KRC DISCOMs' website or DEEP Portal).
- IV) Enquiries/ clarifications may be sought by the Bidder from:

<b>Name of the Authorised Person of KRC DISCOMs</b>	<b>Contact Details</b>
Vaibhav Gawas – Head Power Business	Email id <a href="mailto:vaibhav.gawas@kraheja.com">vaibhav.gawas@kraheja.com</a> Contact No - 08010983950 Address - Mindspace Business Parks Pvt. Ltd, Power House, Near Gate No.2., SEZ, Mindspace,

	TTC Industrial area, MIDC, Opp. Airoli Railway Station, Airoli (E), Navi Mumbai-400708, Maharashtra, India
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### **3.25. RIGHT OF KRC DISCOMs TO REJECT A BID**

KRC DISCOMs reserve the right to reject any or all of the responses to RfS or cancel the RfS or annul the bidding process for any project at any stage without assigning any reasons whatsoever and without thereby any liability. In the event of the tender being cancelled at any stage, the processing fee (excluding GST, if amount credited to KRC DISCOMs' account), without any interest, and EMD submitted by the Bidders shall be returned to the respective Bidders.

### **3.26. Pre and Post LoA COMPLIANCES**

Timely completion of all the milestones, i.e., signing of PPA, meeting Financial Closure Requirements/Conditions Subsequent (PPA), Commissioning, etc., will be the sole responsibility of HPD. KRC DISCOMs shall not be liable for issuing any intimations/reminders to HPDs for timely completion of milestones and/or submission of compliance documents.

Any checklist shared with HPD by KRC DISCOMs for compliance of abovementioned milestones is to be considered for the purpose of facilitation only. Any additional documents required as per the conditions of RfS and PPA must be submitted timely by the HPD.

**Section 4**

**BID EVALUATION**

**AND**

**SELECTION OF PROJECTS**

## **4. Bid evaluation methodology and selection of Projects**

### **4.1. BID EVALUATION**

Bid evaluation will be carried out considering the information furnished by Bidders as per provisions specified in Section 3 of this RfS.

To ensure competitiveness, the minimum number of qualified Bidders should be two. If the number of qualified bidders is less than two, even after three attempts of bidding, and KRC DISCOMs still wants to continue with the bidding process, the same may be done with the consent of Maharashtra Electricity Regulatory Commission.

The detailed evaluation procedure and selection of bidders are described in subsequent clauses in this Section.

### **4.2. TECHNO-COMMERCIAL EVALUATION OF BIDDERS**

#### **A) First Envelope (Technical Bid) Evaluation (Step-1):**

I) The first envelope (Technical Bid submitted online) of only those bidders will be opened by KRC DISCOMs whose required documents as mentioned at clause 3.19 are received at KRC DISCOMs office. Bid opening (online) will be done only after the deadline for submission of Bank Guarantee and/or DDs/Pay order against Cost of RfS document and Bid opening processing fee.

For eg., if the bid submission deadline is 18:00 hrs on 05.11.2024, the online bid opening will be conducted on 08.11.2024. In case of the above deadline being a holiday, the bids will be opened on the next working day.

II) Documents (as mentioned in the previous clause) received after the bid submission deadline specified in the Bid Information Sheet shall be rejected and returned unopened, if super-scribed properly with address, to the bidder.

III) Subject to Clause 3.20, KRC DISCOMs will examine all the documents submitted by the Bidders and ascertain meeting of eligibility conditions prescribed in the RfS. During the examination of the bids, KRC DISCOMs may seek clarifications / additional documents to the documents submitted, etc., from the Bidders, if required, to satisfy themselves for meeting the eligibility

conditions by the Bidders. Bidders shall be required to respond to any clarifications/additional documents sought by KRC DISCOMs within 7 (seven) days from the date of such intimation from KRC DISCOMs. All correspondence in this regard shall be made through email/ DEEP portal only. It shall be the responsibility of the Bidder to ensure that the email id of the authorized signatory of the Bidder is functional. The Bidder may provide an additional email id of the authorized signatory in the covering letter. No reminders in this case shall be sent. It shall be the sole responsibility of the Bidders to remove all the discrepancies and furnish additional documents as requested. KRC DISCOMs shall not be responsible for rejection of any bid on account of the above.

IV) The response to RfS submitted by the Bidder shall be scrutinized to establish techno-commercial eligibility as per RfS.

**B) Second Envelope (Financial Bid) Evaluation (Step-2):**

In this step, evaluation shall be done based on the “Tariff” quoted by the Bidders in the Electronic Form of Financial Bid. After this step, the shortlisted Bidders shall be invited for the Reverse Auction.

I) Second Envelope (containing Tariff) of only those Bidders whose technical bids are found to be qualified shall be opened.

II) The Bidder including its Parent, Affiliate or Ultimate Parent or any Group Company will have to submit bid (single application) quoting a single tariff per kWh, for all the Projects quoted in the bid. Tariff can be quoted up to two places of decimal only. If it is quoted with more than two digits after decimal, the digits after first two decimal places shall be ignored. (For e.g., if the quoted tariff is ₹3.337, then it shall be considered as ₹3.33).

III) In this step, evaluation will be carried out based on the tariff quoted by Bidders. It is clarified that irrespective of the Installed Capacities quoted by the Bidders, shortlisting and award of capacities under the RfS will be carried out based on the cumulative Contracted Capacities quoted by them.

IV) On completion of Techno-Commercial bid evaluation, if it is found that the total aggregate Contracted Capacity as quoted by the short-listed Bidders is lower than or equal to 60 MW, then the procedure as elaborated in Clause No. 4.3.2 shall be followed.

V) On completion of Techno-commercial bid evaluation, if it is found that only one Bidder is eligible, opening of the financial bid of the Bidder will be at the discretion of KRC DISCOMs. Thereafter KRC DISCOMs will take appropriate action as deemed fit.

VI) If the first-round tariff quoted is same for two or more Bidders, then all the Bidders with same tariff shall be considered of equal rank/standing in the order.

VII) All Bidders with same tariff shall be eligible for reverse auction round (provided their rank is equal to or less than n as mentioned in clause 4.3.2).

VIII) Ranking of Bidders after Financial Bid Evaluation shall be done in the following manner:

<b>Bidder</b>	<b>Submitted Financial bid</b>	<b>Ranking</b>
B1	₹ 2.10 (Tariff in ₹/ kWh)	L1
B2	₹ 2.20 (Tariff in ₹/ kWh)	L2
B3	₹ 2.30 (Tariff in ₹/ kWh)	L3
B4	₹ 2.30 (Tariff in ₹/ kWh)	L3
B5	₹ 2.65 (Tariff in ₹/ kWh)	L4
B6	₹ 2.70 (Tariff in ₹/ kWh)	L5
B7	₹ 2.80 (Tariff in ₹/ kWh)	L6
B8	₹ 2.88 (Tariff in ₹/ kWh)	L7
B9	₹ 2.88 (Tariff in ₹/ kWh)	L7

#### **4.3. REVERSE AUCTION (STEP-3)**

**4.3.1.** The e-reverse auction shall be conducted on DEEP Portal. Reverse Auction shall be carried out on the day as intimated by KRC DISCOMs to the eligible bidders. All the techno-commercially qualified bidders whose financial bids are in line with the RfS provisions, will be shortlisted for e-RA.

**4.3.2.** The Total eligible bidders for the reverse auction shall be decided as mentioned below:  
Assuming

T = Total Techno-Commercially Qualified Bidders, and

$S_k$  = Cumulative bid capacity till the ‘ $k$ ’th serial number bidder (not the ‘ $k$ ’th rank bidder) after ranking is done in ascending order from L1 onwards

ST= Total bid capacity of techno-commercially shortlisted bidders

SB = (Eligible capacity for e-RA)	(i) In case $S_k \leq 120$ MW, SB = 1.0 X ST (ii) In case $S_k > 120$ MW, SB = 0.8 X ST, subject to maximum eligible capacity being 120 MW.
-----------------------------------	--

Total eligible Bidders for e-Reverse Auction

In case  $(1.0 \times S_k) \leq 120$  MW: all the techno-commercially qualified bidders whose financial bids are in line with the RfS provisions, will be shortlisted for e-RA.

Accordingly, the no. of bidders shortlisted for e-RA, i.e., “ $n$ ” = “ $T$ ”.

In case  $(0.8 \times S_k) > 120$  MW: The lowest ranked bidder, i.e., the bidder quoting the highest tariff (the “H1 bidder”) shall be eliminated at this stage, and the remaining techno-commercially qualified bidders whose financial bids are in line with the RfS provisions, will be shortlisted for e-RA.

Accordingly, the no. of bidders shortlisted for e-RA, i.e., “ $n$ ” = “ $T$ ”-1

Note:

In case more than one bidder is ranked as “H1” bidder, i.e., such bidders are at the same tariff, all such bidders will be eliminated at this stage.

The above elimination will take place subject to the condition that the total bid capacity after such elimination remains more than 120 MW and the minimum number of shortlisted bidders for e-RA, after elimination at this stage, remains 3. In the contradictory scenario, no elimination will take place at this stage.

For e.g. (Shortlisting of Bidders for reverse auction):

Scenario-1: Total bid capacity of techno-commercially shortlisted bidders = ST =125 MW

Sl.	Techno commercially qualified Bidder	Rank	Capacity (MW)	T	ST	SB=(0.8 x ST)	n*	Shortlisted
1	B3	L1	25	10	125	100	9	B3
2	B5	L2	10					B5
3	B7	L3	10					B7
4	B10	L3	20					B10
5	B1	L4	10					B1
6	B8	L5	10					B8
7	B9	L6	10					B9
8	B2	L7	10					B2
9	B4	L8	10					B4

Scenario-2: Total bid capacity of techno-commercially shortlisted bidders= ST=60 MW

Sl. No.	Techno commercially qualified Bidder	Rank	Capacity (MW)	T	ST	SB=(1.0 x ST)	n*	Shortlisted
1	B3	L1	10	4	60	60	4	B3
2	B1	L2	10					B1
3	B4	L3	10					B4
4	B2	L3	30					B2

**4.3.3.** At least one week prior to reverse auction, an advance intimation regarding the date and time of the e-Reverse Auction will be sent to by email to all Bidders whose technical bids have been opened and found to be qualified.

**4.3.4.** Shortlisted bidders for Reverse Auction will be able to login into the DEEP website of reverse auction 15 minutes before the start time of reverse auction.

- (i) During the 15 minutes prior to start of reverse auction process, the respective tariff along with the total project capacity of the bidder shall be displayed on its window.
- (ii) The minimum decrement value for tariff shall be ₹ 0.01 per kWh. The bidder can mention its revised tariff, which has to be at least 01 (one) paisa less than its current tariff.
- (iii) Bidders can only quote any value lower than their previous quoted tariff taking into consideration the minimum decrement value mentioned in the previous clause. However, at any stage, increase in tariff will not be permissible. Bidders can improve their ranking by quoting the tariff lower than their last quoted tariff.
- (iv) During reverse auction, the bidder shall not have the option of changing the total project capacity as each bidder will have to bid for the entire project Capacity while quoting tariff during reverse auction.
- (v) In the bidder's bidding window, the following information can be viewed by the bidder:
  - a. Its tariff as their initial start price and there after last quoted tariff for which the bidder is qualified;
  - b. The list of all the bidders with their following details:  
Pseudo Identity, last quoted tariff, project capacity.

The initial auction period will be of 60 (sixty) minutes with a provision of auto extension by 8 (eight) minutes from the scheduled/ extended closing time. Such auto extension shall be effected if by way of reduction in tariff, a Bidder causes a change in its zonal placement at that instant. The ‘zones’ are as defined below:

**Green Zone:** This zone consists of the Bidders who may be allocated their full quoted Project capacity, subject to provisions of Clause 4.4, if the auction is closed at that instant.

**Yellow Zone:** This zone consists of the Bidders who may be allocated a part of their full quoted Project capacity, subject to provisions of Clause 4.4, if the auction is closed at that instant.

**Red Zone:** This zone consists of the Bidders who will not be awarded their quoted Project capacity, subject to provisions of Clause 4.4, if the auction is closed at that instant.

If no such change as described above is effected during the last 20 minutes of auction period or extended auction period, then the reverse auction process will automatically get closed.

#### **4.4. SELECTION OF SUCCESSFUL BIDDERS**

**4.4.1.** Subsequent to conclusion of the e-RA process, the bidders in the “Green” and “Yellow” zones as per Clause 4.3.4 (vi) above, will be listed in the increasing order of the tariffs discovered at the end of e-RA.

**4.4.2.** The bidders who fall within the range of (and including) the lowest tariff (L1 tariff) + 5% of the L1 tariff-hereinafter referred to as “the range”- will be declared as Successful Bidders under the RfS, subject to the following conditions:

- i. In case the cumulative capacity shortlisted as per the range exceeds capacity eligible for award as per Clause 3.2 (from hereon denoted by SE), the list of Successful Bidders shall be limited by SE.
- ii. In a borderline case, i.e., the scenario wherein more than one bidder is eligible to be declared as Successful Bidder at the highest tariff (the tariff at the end of the range), and the cumulative capacity exceeds SE, time stamping of bidders shall be used to limit allocation of cumulative capacity up to SE. In such cases, those bidders who are at the same tariff, but are ranked lower than the ones which fall

within the cumulative capacity limit of SE, will not be eligible to be declared as Successful Bidders.

In other words, in every possible scenario, the total capacity to be awarded under the RfS shall be limited to SE.

iii. Time stamping - In case of a tie among two or more Bidders (i.e., their last quoted tariff being the same), they will be considered in the chronological order of their last quoted tariff during the e-RA with preference to be given to that Bidder who has quoted his last tariff during the e-RA, earlier than others.

**4.4.3.** In the above case, if the time of quote also becomes exactly same among the Bidders at a tie, then the ranking among these Bidders shall be done as follow:

**Step – 1:** Lowest rank (L1) will be given to the Bidder who has quoted the lowest in Financial Bid (Electronic Form) and so on. If there is also a tie among any of these Bidders, then the following step (Step 2) will be followed.

**Step – 2:** Ranking will be done based on draw of lots.

**4.4.4.** The allocation of cumulative project capacity shall be closed at SE. However, in no case, shall the capacity of a single Project selected under this RfS, be less than 10 MW, subject to provision of Clause 3.2 of the RfS. In case of the last Successful Bidder, if the balance project capacity is less than the total capacity mentioned by the Bidder but greater than 10 MW, then the Project with highest preference (as mentioned in the Covering Letter) shall be awarded to the Bidder, subject to the maximum cumulative capacity not exceeding SE, being awarded under the RfS.

**4.4.5.** In case the partial capacity offered to the last Successful Bidder as per Cl. 4.4.4 above, is lower than 50% of the total quoted capacity by such Bidder, the Bidder shall have an option to refuse such offered partial capacity, and the BG against EMD submitted by such Bidder shall be returned along with those of the unsuccessful Bidders. Such refusal shall be intimated to KRC DISCOMs within 7 days of completion of e-RA and not later than 7 days of issuance of LoAs by KRC DISCOMs, failing which, the awarded capacity shall be deemed to be accepted by the said Bidder.

**4.4.6.** In case the partial capacity offered to the last Successful Bidder as per Cl. 4.4.4 above, is greater than or equal to 50% of the total quoted capacity by such Bidder, it shall be mandatory for the last Bidder to accept the partial capacity offered against its quoted capacity, subject to the total cumulative capacity awarded under the RfS not exceeding SE. In case the last Successful Bidder refuses to accept such partial capacity offered by KRC DISCOMs, the Bank Guarantee(s) against EMD submitted by such Bidder shall be encashed by KRC DISCOMs.

#### **4.5. ISSUANCE OF LOAs:**

**4.5.1.** At the end of selection process, Letters of Award (LoAs) will be issued to the Successful Bidders discovered as above. The LoAs shall be awarded for the Contracted Capacity as quoted by the respective successful bidder, or the partial Contracted Capacity, as the case may be. In case of a Consortium being selected as the successful Bidder, the LoA will be issued to the Lead Member of the Consortium.

**4.5.2.** In case KRC DISCOMs is unable to find buyers/off-takers for the tariffs as discovered after the bidding process, KRC DISCOMs reserves the right to annul the bid process without any financial implications to any of the parties concerned. KRC DISCOMs reserves the right to cancel any or all of the bids in view of higher tariff discovered after e-RA. In all cases, KRC DISCOMs' decision regarding selection of Bidder through Reverse Auction or otherwise based on tariff or annulment of tender process shall be final and binding on all participating bidders.

**4.5.3.** For a particular bidder, in case the finally modified capacity offered by KRC DISCOMs for signing of PPA is lower than the capacity for which the LoA was issued to the said Bidder, the respective Bidder may choose to reject such modified capacity, and will be allowed to exit the process without any liability to either party (i.e., KRC DISCOMs or the Bidder), and the said refused capacity will be offered to the next successful bidder as per the list of successful bidders.

## **Section 5**

### **OTHER PROVISIONS**

## **5. Other Provisions**

### **5.1. General Design of the Facility**

The Bidder shall ensure to operate and maintain the Facility in accordance with the relevant technical standards in terms of the Electricity Act 2003 and Rules, Regulations, Orders and Policy decisions there under.

## **Section 6**

### **FORMATS FOR BID SUBMISSION**

## **6. Formats for Bid Submission**

The following Formats are required to be submitted as part of the RfS. These Formats are designed to demonstrate the Bidder's compliance with the Qualification Requirements set forth in Clause 3.5, 3.6 of Section 3 and other submission requirements specified in the RfS.

- i) Format of Covering Letter (Format 6.1)
- ii) Format of Power of Attorney (Format 6.2 A)
- iii) Format of Power of Attorney (Format 6.2 B)
- iv) Format of Earnest Money Deposit (EMD) (Format 6.3 A)
- v) Format of Payment on Order Instrument to be issued by IREDA/REC/PFC (in lieu of BG towards EMD)
- vi) Format of Performance Bank Guarantee (Format 6.3 B) (to be submitted prior to signing of PPA)
- vii) Format of Payment on Order Instrument to be issued by IREDA/REC/PFC (in lieu of PBG)
- viii) Format of Board Resolutions (Format 6.4)
- ix) Format of the Consortium Agreement (Format 6.5)
- x) Format of Financial Requirement (Format 6.6)
- xi) Undertaking w.r.t. no event of default (Format 6.7)
- xii) Format of Disclosure (Format 6.8)

- xiii) Format of Commitment to Financial Closure (Format 6.9)
- xiv) Format of Proposed Technology Tie-up (Format 6.10)
- xv) Format of submission of financial bid (Formats 6.11)
- xvi) Break-up of Estimated Project Cost (Format 6.11 A)
- xvii) Format regarding Timelines of the milestones (Format 6.12)
- xviii) Technical Requirements for Grid Connected Wind Power Projects (Annexure - A)
- xix) Check List for Bank Guarantees (Annexure-B)
- xx) Special Instructions to Bidders for e-Tendering and Reverse Auction (Annexure-C)
- xxi) Checklist for Financial Closure (Annexure-D)
- xxii) Bidders' Declaration Format associated with Implementation of ALMM Order (Annexure-E)
- xxiii) Self-Undertaking for identification of 100% land for wind solar hybrid project (Annexure-F).

The Bidder may use additional sheets to submit the information for his detailed response.

## **FORMAT-6.1**

### **Covering Letter**

(The covering letter should be on the Letter Head of the Bidder/ Lead Member of the Bidding Consortium)

Date: \_\_\_\_\_

Reference No: \_\_\_\_\_

From: \_\_\_\_\_ (Insert name and address of Bidder/ Lead Member of the Bidding Consortium)

Tel.#:

Fax#:

E-mail address#

To

Head of Power Business  
Mindspace Business Parks Pvt. Ltd,  
Power House, Near Gate No.2, SEZ, Mindspace,  
TTC Industrial area, MIDC,  
Opp. Airoli Railway Station, Airoli (E),  
Navi Mumbai-400708, Maharashtra, India

**Sub: Response to RfS No. \_\_\_\_\_ dated \_\_\_\_\_ for Setting Up of Wind-Solar Hybrid Grid Connected Power Projects.**

Dear Sir,

We, the undersigned ..... [insert name of the 'Bidder'] having read, examined and understood in detail the RfS including qualification requirements in particular, terms and conditions of the standard PPA for supply of power for 20 years to KRC DISCOMs hereby submit our response to RfS. We confirm that in response to the aforesaid RfS, neither we nor any of our Ultimate Parent Company/ Parent Company/ Affiliate/ Group Company has submitted response to RfS other than this response to RfS, directly or indirectly (as mentioned in Format 6.8 under Disclosure). We also confirm that we including our Ultimate Parent Company / Parent Company / Affiliate / Group Companies directly or indirectly have not submitted response to RfS for more than cumulative capacity of **30 MW** including this response to RfS. We are submitting application for the development of following Wind-Solar hybrid Power Project(s): -

Project No.	Cumulative Capacity (MW)	Installed Capacity to be committed under the PPA (Rated capacities of respective components)	Location(s) (Village, Tehsil, Dist., State)	Interconnection Point Details	Proposed CUF
		Solar PV component: ____ MW			
		Wind power component: ____ MW			

(Note: The Bidder must ensure the project capacity mentioned should be prorated for capacity as per Cl. 3.2.5. Delete/Insert rows as applicable)

1. We give our unconditional acceptance to the RfS, dated ..... [Insert date in dd/mm/yyyy], and standard PPA attached thereto, issued by KRC DISCOMs. In token of our acceptance to the RfS, PPA along with the amendments and clarifications issued by KRC DISCOMs, the same have been digitally signed by us and enclosed with the response to RfS. We shall ensure that the PPA is executed as per the provisions of the RfS, and provisions of PPA shall be binding on us. Further, we confirm that the Project shall be commissioned within the deadline as per clause provisions of the RfS. We further undertake that we shall demonstrate possession of 100% area of the identified land, within the timelines as per the RfS.

**2. Earnest Money Deposit (EMD): -** *(Please read Clause 3.9 carefully before filling)*

We have enclosed EMD of Rs. ..... (Insert Amount) in the form of bank guarantee No..... [Insert bank guarantee number] dated ..... [Insert date of bank guarantee] as per Format 6.3A from ..... [Insert name of bank providing bank guarantee] and valid up to.....in terms of Clause 3.9 of this RfS. The total capacity of the Wind-Solar hybrid Power Project offered by us is ..... MW [Insert cumulative capacity proposed].

3. We hereby declare that in the event our Project(s) gets selected and we are not able to submit Bank Guarantee of the requisite value(s) towards PBG for the selected Projects within due time as mentioned in 3.9 (ii), on issue of LOA by KRC DISCOMs for the selected Projects and/or we are not able to sign PPA with KRC DISCOMs within 90 days from date of issue of LOA or as intimated by KRC DISCOMs for the selected Projects, KRC DISCOMs shall have the right to encash the EMD submitted by us, as applicable, and return the balance amount (if any) for the value of EMD pertaining to unsuccessful capacity.

4. We have submitted our response to RfS strictly as per Section – 6 (Formats) of this RfS, without any deviations, conditions and without mentioning any assumptions or notes in the said Formats.

**5. Acceptance**

We hereby unconditionally and irrevocably agree and accept that the decision made by KRC DISCOMs in respect of any matter regarding or arising out of the RfS shall be binding on us. We hereby expressly waive and withdraw any deviations and all claims in respect of this process.

We also unconditionally and irrevocably agree and accept that the decision made by KRC DISCOMs in respect of award of Projects according to our preference order as above and in line with the provisions of the RfS, shall be binding on us.

**6. Familiarity with Relevant Indian Laws & Regulations:**

We confirm that we have studied the provisions of the relevant Indian laws and regulations as required to enable us to submit this response to RfS, and execute the PPA in the event of our selection as successful Bidder.

7. In case of our selection as the successful Bidder under the scheme and the project being executed by a Special Purpose Vehicle (SPV) incorporated by us, such SPV shall be our subsidiary, and we shall infuse necessary equity to meet the requirements of RfS. Further, we will submit a Board Resolution prior to signing of PPA with KRC DISCOMs, committing total equity infusion in the SPV as per the provisions of RfS.

8. We are submitting our response to the RfS with formats duly signed as desired by KRC DISCOMs in the RfS online for your consideration.

9. It is confirmed that our response to the RfS is consistent with all the requirements of submission as stated in the RfS, including all clarifications and amendments and subsequent communications from KRC DISCOMs.

10. The information submitted in our response to the RfS is correct to the best of our knowledge and understanding. We would be solely responsible for any errors or omissions in our response to the RfS.

11. We confirm that all the terms and conditions of our Bid are valid up to \_\_\_\_\_ (Insert date in dd/mm/yyyy) for acceptance (i.e., a period of one hundred eighty (180) days from the last date of submission of response to RfS).

**12. Contact Person**

Details of the representative to be contacted by KRC DISCOMs are furnished as under:

Name : .....

Designation : .....

Company : .....

Address : .....

Phone Nos. : .....

Mobile Nos. : .....

Fax Nos. : .....

E-mail address .....

13. We have neither made any statement nor provided any information in this Bid, which to the best of our knowledge is materially inaccurate or misleading. Further, all the confirmations, declarations and representations made in our Bid are true and accurate. In case this is found to be incorrect after our selection as successful Bidder, we agree that the same would be treated as a Seller's event of default under PPA and consequent provisions of PPA shall apply.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 20...

Thanking you,

Yours faithfully,

(Name, Designation and Signature of Person Authorized by the board)

## **FORMAT-6.2 A**

*(Applicable only in case of Consortium)*

### **Format of Power of Attorney**

(To be provided by each of the other members of the Consortium in favour of the Lead Member)

### **POWER OF ATTORNEY**

(To be executed on non-judicial stamp paper of appropriate value as per Stamp Act relevant to  
place of execution.)

KNOW ALL MEN BY THESE PRESENTS THAT M/s.....having its registered

office at .....and M/s ..... having its  
registered

office at ..... , (Insert names and registered offices of all Members of the

Consortium) have formed a Bidding Consortium named..... (insert name of the  
Consortium if finalized) (hereinafter called the ‘Consortium’) vide Consortium Agreement  
dated..... and having agreed to appoint M/s.....as the  
Lead Member of the said Consortium, do hereby constitute, nominate and appoint  
M/s.....a company incorporated under the laws of .....and having its  
Registered /Head Office at .....as our duly constituted lawful Attorney  
(hereinafter called as Lead Member) to exercise all or any of the powers for and on behalf of the  
Consortium in regard to submission of the response to RfS No.....

We also authorize the said Lead Member to undertake the following acts:

- i) To submit on behalf of Consortium Members response to RfS.

- ii) To do any other act or submit any information and document related to the above response to RfS Bid.

It is expressly understood that in the event of the Consortium being selected as Successful Bidder, this Power of Attorney shall remain valid, binding and irrevocable until the Bidding Consortium achieves execution of PPA.

We as the Member of the Consortium agree and undertake to ratify and confirm all whatsoever the said Attorney/Lead Member has done on behalf of the Consortium Members pursuant to this Power of Attorney and the same shall bind us and deemed to have been done by us.

IN WITNESS WHEREOF M/s ..... as the Member of the Consortium have executed these presents on this..... day of .....under the Common Seal of our company.

For and on behalf of Consortium Member

M/s.....

----- (Signature of person authorized by the board)  
(Name)

Designation Place:

Date:)

Accepted

-----  
(Signature, Name, Designation and Address

of the person authorized by the board of the Lead Member)

Attested

-----  
(Signature of the executant)

-----  
(Signature & stamp of Notary of the place of execution)

Place:----- Date:-----

**Note:** - Lead Member in the Consortium shall have the controlling shareholding in the Company as defined in Section 2 of the RfS.

## **FORMAT-6.2 B**

*(Applicable only in case of single bidder)*

### **Format of Power of Attorney**

(To be provided by prospective single Bidder)

### **POWER OF ATTORNEY**

(To be executed on non-judicial stamp paper of appropriate value as per Stamp Act relevant to place of execution.)

KNOW ALL MEN BY THESE PRESENTS THAT M/s..... having its registered office at ....., have agreed to appoint Mr./Mrs./Ms..... residing at .....as the Authorised Signatory of the firm, do hereby constitute, nominate and appoint him as our duly constituted lawful Attorney (hereinafter called as Authorised Signatory) to exercise all or any of the powers for and on behalf of the Bidder in regard to submission of the response to RfS No.....

We also authorize the said Authorised Signatory to undertake the following acts:

- i) To submit on behalf of Firm in response to RfS.
- ii) To do any other act or submit any information and document related to the above response to RfS Bid.

It is expressly understood that in the event of the Bidder being selected as Successful Bidder, this Power of Attorney shall remain valid, binding and irrevocable until the Firm achieves execution of PPA.

We undertake to ratify and confirm all whatsoever the said Attorney/Authorised Signatory has done on behalf of the Bidder pursuant to this Power of Attorney and the same shall bind us and deemed to have been done by us.

For and on behalf of Bidder

M/s.....

----- (Signature of person authorized by the board)

(Name

Designation Place:

Date:)

Accepted

-----  
(Signature, Name, Designation and Address

of the person authorized Signatory)

Attested

-----  
(Signature of the executant)

-----  
(Signature & stamp of Notary of the place of execution)

Place:----- Date:-----

## FORMAT-6.3 A

### **Format of Earnest Money Deposit**

(To be on non-judicial stamp paper of appropriate value as per Stamp Act relevant to place of execution.)

Ref. \_\_\_\_\_ Bank Guarantee No. \_\_\_\_\_

Date: \_\_\_\_\_

In consideration of the ----[Insert name of the Bidder] (hereinafter referred to as 'Bidder') submitting the response to RfS inter alia for selection of the Project/Projects of the cumulative capacity of ..... MW [Insert cumulative Project capacity proposed] under RfS for Setting Up of 60 MW Grid Connected Wind-Solar Hybrid Power Projects for supply of power there from on long-term basis, in response to the RfS No. \_\_\_\_\_ dated \_\_\_\_ issued by Mindspace Business Parks Private Limited (MBPPL), Gigaplex Estate Private Limited (GEPL), and KRC Infrastructure and Projects Private Limited (KRCIPPL) (hereinafter referred to as KRC DISCOMs) and KRC DISCOMs considering such response to the RfS of.....[insert the name of the Bidder] as per the terms of the RfS, the \_\_\_\_\_ [insert name & address of bank] hereby agrees unequivocally, irrevocably and unconditionally to pay to KRC DISCOMs at [Insert Name of the Place from the address of KRC DISCOMs] forthwith on demand in writing from KRC DISCOMs or any Officer authorized by it in this behalf, any amount up to and not exceeding Rupees -----[Insert amount not less than that derived on the basis of Rs. 5 Lakh per MW of cumulative capacity proposed, only, on behalf of M/s. \_\_\_\_\_ [Insert name of the Bidder].

This guarantee shall be valid and binding on this Bank up to and including \_\_\_\_\_ [insert date of validity in accordance with Clause 3.9 of this RfS] 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 alterations 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 Rs. \_\_\_\_\_ (Rs. \_\_\_\_\_)

only). Our Guarantee shall remain in force until \_\_\_\_\_ [insert date of validity in accordance with Clause 3.9 of this RfS]. KRC DISCOMs shall be entitled to invoke this Guarantee till \_\_\_\_\_ [insert date of validity in accordance with Clause 3.9 of this RfS].

The Guarantor Bank hereby agrees and acknowledges that the KRC DISCOMs 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 KRC DISCOMs, made in any format, raised at the above-mentioned address of the Guarantor Bank, in order to make the said payment to KRC DISCOMs.

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

This BANK GUARANTEE shall be interpreted in accordance with the laws of India and the courts at Mumbai 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 KRC DISCOMs shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against the Bidder, to make any claim against or any demand on the Bidder or to give any notice to the Bidder or to enforce any security held by KRC DISCOMs or to exercise, levy or enforce any distress, diligence or other process against the Bidder.

This BANK GUARANTEE shall be effective only when the Bank Guarantee issuance message is transmitted by the issuing Bank through SFMS to Axis Bank and a confirmation in this regard is received by KRC DISCOMs.

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

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to Rs. \_\_\_\_\_ (Rs. \_\_\_\_\_ only) and it shall remain in force until \_\_\_\_\_

[Date to be inserted on the basis of Clause 3.9 of this RfS]. We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if KRC DISCOMs serves upon us a written claim or demand.

Signature \_\_\_\_\_

Name \_\_\_\_\_

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

For

\_\_\_\_\_ [Insert Name of the Bank] \_\_\_\_\_

E-mail ID of the bank:

Banker's Stamp and Full Address.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

## FORMAT-6.3 B

### FORMAT OF PAYMENT ON ORDER INSTRUMENT TO BE ISSUED BY IREDA/REC/PFC (IN LIEU OF BG TOWARDS EMD)

**No.**

**Date**

**MINDSPACE BUSINESS PARKS PRIVATE LIMITED (on behalf of KRC DISCOMs),**  
**Plot No. C-30, Block 'G',**  
**Opp. SIDBI, Bandra Kurla Complex,**  
**Bandra (E), Mumbai – 400 051,**  
**Maharashtra, India**

**Reg: M/s \_\_\_\_\_ (insert name of the Bidder) – Issuance of Payment on Order  
Instrument for an amount of Rs.\_\_\_\_\_**

Dear Sir,

1. It is to be noted that M/s. \_\_\_\_\_ (insert name of the POI issuing Agency) ('IREDA/REC/PFC') has sanctioned a non-fund based limit loan of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only) to M/s \_\_\_\_\_ under the Loan Agreement executed on \_\_\_\_\_ to execute Renewable Energy Projects.
2. At the request of M/s \_\_\_\_\_, on behalf of \_\_\_\_\_ (insert name of the Bidder), this Payment on Order Instrument (POI) for an amount of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ (in words)). This Payment on Order Instrument comes into force immediately.
3. In consideration of the \_\_\_\_\_ [Insert name of the Bidder] (hereinafter referred to as 'Bidder') submitting the response to RfS inter alia for Setting Up of 60 MW Grid Connected Wind-Solar Hybrid Power Projects for supply of power there from on long-term basis, in response to the RfS No. \_\_\_\_\_ dated \_\_\_\_\_ issued by Mindspace Business Parks Private Limited (MBPPL), Gigaplex Estate Private Limited (GEPL), and KRC Infrastructure and Projects Private Limited (KRCIPPL) (hereinafter referred to as KRC DISCOMs) and KRC DISCOMs considering such response to the RfS of ..... [Insert the name of the Bidder] as per the terms of the RfS, the \_\_\_\_\_ [Insert name & address of IREDA/PFC/REC] hereby agrees unequivocally, irrevocably and unconditionally to pay to KRC DISCOMs at Mumbai forthwith without demur on demand in writing from KRC DISCOMs or any Officer authorized by it in this behalf, any amount up to and not exceeding Rupees \_\_\_\_\_ [Insert amount not less than that derived on the basis of Rs. 10.00 Lakhs per MW of cumulative capacity proposed], only, on behalf of M/s \_\_\_\_\_ [Insert name of the Bidder].

4. In consideration of the above facts, IREDA/REC/PFC, having its registered office at \_\_\_\_\_, agrees to make payment for the sum of Rs. \_\_\_\_\_ lakhs (in words.....) to KRC DISCOMs on the following conditions:-

- (a) IREDA/REC/PFC agrees to make payment of the above said amount unconditionally, without demur and without protest within a period of \_\_\_\_\_ days of receipt of request from KRC DISCOMs within the validity period of this letter as specified herein;
- (b) The commitment of IREDA/REC/PFC, under this Payment of Order Instrument will have the same effect as that of the commitment under the Bank Guarantee issued by any Public Sector Bank and shall be enforceable in the same manner as in the case of a Bank Guarantee issued by a Bank and the same shall be irrevocable and shall be honored irrespective of any agreement or its breach between IREDA/REC/PFC or its constituents notwithstanding any dispute that may be raised by the against KRC DISCOMs;
- (c) The liability of IREDA/REC/PFC continues to be valid and binding on IREDA/REC/PFC and shall not be terminated, impaired and discharged, by virtue of change in its constitution and specific liability under letter of undertaking shall be binding on its successors or assignors;
- (d) The liability of IREDA/REC/PFC shall continue to be valid and binding on IREDA/REC/PFC and shall not be terminated/ impaired/ discharged by any extension of time or variation and alteration made given or agreed with or without knowledge or consent of the parties (KRC DISCOMs and Bidding Party), subject to the however to the maximum extent of amount stated herein and IREDA/REC/PFC is not liable to any interest or costs etc.;
- (e) This Payment of Order Instrument can be invoked either partially or fully, till the date of validity;
- (f) IREDA/REC/PFC agrees that it shall not require any proof in addition to the written demand by KRC DISCOMs made in any format within the validity period. IREDA/REC/PFC shall not require KRC DISCOMs to justify the invocation of the POI against the SPV/HPD, to make any claim against or any demand against the SPV/HPD or to give any notice to the SPV/HPD;

(g) The POI shall be the primary obligation of IREDA/REC/PFC and DISCOMs shall not be obliged before enforcing the POI to take any action in any court or arbitral proceedings against the SPV/HPD;

(h) Neither KRC DISCOMs is required to justify the invocation of this POI nor shall IREDA/REC/PFC have any recourse against KRC DISCOMs in respect of the payment made under letter of undertaking;

5. Notwithstanding anything contrary contained anywhere in this POI or in any other documents, this POI is and shall remain valid up to \_\_\_\_\_ and IREDA/REC/PFC shall make payment thereunder only if a written demand or request is raised within the said date and to the maximum extent of Rs. ..... and IREDA/REC/PFC shall in no case, be liable for any interest, costs, charges and expenses and IREDA's/REC's/PFC's liability in no case will exceed more than the above amount stipulated.

6. In pursuance of the above, IREDA/REC/PFC and KRC DISCOMs have signed an Umbrella Agreement dated \_\_\_\_ setting out the terms and conditions for issue of letter of undertaking by IREDA/REC/PFC to KRC DISCOMs and the said terms and conditions shall be read as a part of this letter of undertaking issued for the project of the project of PP mentioned above.

Thanking you,

Yours faithfully,

For and on behalf of

M/s

---

(Name of POI issuing Authority)

(        )

General Manager (TS)

Copy to:-

M/s. \_\_\_\_\_

---

---

As per their request

(        )

General Manager (TS)

## FORMAT-6.3 C

### **Format of Performance Bank Guarantee for Wind-Solar Hybrid Power Project**

(to be submitted separately for each Project)

(To be on non-judicial stamp paper of appropriate value as per Stamp Act relevant to place of execution.)

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 selection of the Project of the capacity of ..... MW, at .....[Insert name of the place] under RfS for Setting Up of 60 MW Grid Connected Wind-Solar Hybrid Power Projects, for supply of power there from on long-term basis, in response to the RfS dated..... issued by Mindspace Business Parks Private Limited (MBPPL), Gigaplex Estate Private Limited (GEPL), and KRC Infrastructure and Projects Private Limited (KRCIPPL) (hereinafter referred to as KRC DISCOMs) and KRC DISCOMs considering such response to the RfS of .....[insert the name of the selected Hybrid Power Developer] (which expression shall unless repugnant to the context or meaning thereof include its executers, administrators, successors and assignees) and selecting the Hybrid Power 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 KRC DISCOMs at [Insert Name of the Place from the address of the KRC DISCOMs] forthwith on demand in writing from KRC DISCOMs or any Officer authorized by it in this behalf, any amount up to and not exceeding 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 Rs. \_\_\_\_\_ only.

Our Guarantee shall remain in force until..... KRC DISCOMs shall be entitled to invoke this Guarantee till .....

The Guarantor Bank hereby agrees and acknowledges that KRC DISCOMs 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 KRC DISCOMs, made in any format, raised at the above-mentioned address of the Guarantor Bank, in order to make the said payment to KRC DISCOMs.

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 KRC DISCOMs to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against KRC DISCOMs in respect of any payment made hereunder.

This BANK GUARANTEE shall be interpreted in accordance with the laws of India and the courts at Mumbai 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 KRC DISCOMs 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 KRC DISCOMs 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 AxisBank and a confirmation in this regard is received by KRC DISCOMs.

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

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to Rs. \_\_\_\_\_ (Rs. \_\_\_\_\_ only) and it shall remain in force until .....

We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if KRC DISCOMs serves upon us a written claim or demand.

Signature \_\_\_\_\_

Name \_\_\_\_\_

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

For

\_\_\_\_\_ [Insert Name 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 Bank from the List of Banks mentioned in draft PPA.

## FORMAT-6.3 D

### FORMAT OF PAYMENT ON ORDER INSTRUMENT TO BE ISSUED BY

**IREDA/REC/PFC (IN LIEU OF PBG)**

<b>No.</b>	<b>Date</b>
<b>MINDSPACE BUSINESS PARKS</b>	<b>Registered</b>
<b>PRIVATE LIMITED (on behalf of KRC DISCOMs),</b>	
<b>Plot No. C-30, Block 'G',</b>	
<b>Opp. SIDBI, Bandra Kurla Complex,</b>	
<b>Bandra (E), Mumbai – 400 051,</b>	
<b>Maharashtra, India</b>	

**Reg: M/s \_\_\_\_\_ (insert name of the PPA signing Entity) (Project No.**

**\_\_\_\_\_ (Insert Project ID issued by KRC DISCOMs)– Issuance of Payment on Order  
Instrument for an amount of Rs.\_\_\_\_\_**

Dear Sir,

1. It is to be noted that M/s. \_\_\_\_\_(insert name of the POI issuing Agency) ('IREDA/REC/PFC') has sanctioned a non-fund based limit loan of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only) to M/s \_\_\_\_\_ under the Loan Agreement executed on \_\_\_\_\_ to execute Renewable Energy Projects.
2. At the request of M/s \_\_\_\_\_, on behalf of \_\_\_\_\_ (insert name of the SPV), this Payment on Order Instrument (POI) for an amount of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ (in words)). This Payment on Order Instrument comes into force immediately.
3. 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 selection of Contracted Capacity of ..... MW, at ..... [Insert name of the place] under RfS for \_\_\_\_\_ (insert name of the RfS), for supply of power there from on long term basis, in response to the RfS dated..... issued by Mindspace Business Parks Private Limited (MBPPL), Gigaplex Estate Private Limited (GEPL), and KRC Infrastructure and Projects Private Limited (KRCIPPL) (hereinafter referred to as KRC DISCOMs) and KRC DISCOMs considering such response to the RfS of ..... [insert the name of the selected Hybrid Power Developer] (which expression shall unless repugnant to the context or meaning thereof include its executors, administrators, successors and assignees) and selecting the Wind-Solar Hybrid Power Project of the Hybrid Power Developer (HPD) 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 IREDA/PFC/REC] hereby agrees unequivocally, irrevocably and unconditionally to pay to KRC DISCOMs at [Insert Name of the Place from the address of the KRC DISCOMs] forthwith on demand in writing from KRC DISCOMs or any Officer authorized by it in this behalf, any amount up to and not exceeding Rupees----- [Total Value] only, on behalf of M/s \_\_\_\_\_ [Insert name of the selected Hybrid Power Developer / Project Company].

4. In consideration of the above facts, IREDA/REC/PFC, having its registered office at \_\_\_\_\_, agrees to make payment for the sum of Rs. \_\_\_\_\_ lakhs (in words.....) to KRC DISCOMs on the following conditions:-

- (i) IREDA/REC/PFC agrees to make payment of the above said amount unconditionally, without demur and without protest within a period of \_\_\_\_\_ days of receipt of request from KRC DISCOMs within the validity period of this letter as specified herein;
- (ii) The commitment of IREDA/REC/PFC, under this Payment of Order Instrument will have the same effect as that of the commitment under the Bank Guarantee issued by any Public Sector Bank and shall be enforceable in the same manner as in the case of a Bank Guarantee issued by a Bank and the same shall be irrevocable and shall be honoured irrespective of any agreement or its breach between IREDA/REC/PFC or its constituents notwithstanding any dispute that may be raised by the against KRC DISCOMs;
- (iii) The liability of IREDA/REC/PFC continues to be valid and binding on IREDA/REC/PFC and shall not be terminated, impaired and discharged, by virtue of change in its constitution and specific liability under letter of undertaking shall be binding on its successors or assignors;
- (iv) The liability of IREDA/REC/PFC shall continue to be valid and binding on IREDA/REC/PFC and shall not be terminated/ impaired/ discharged by any extension of time or variation and alteration made given or agreed with or without knowledge or consent of the parties (KRC DISCOMs and Bidding Party), subject to the however to the maximum extent of amount stated herein and IREDA/REC/PFC is not liable to any interest or costs etc.;
- (v) This Payment of Order Instrument can be invoked either partially or fully, till the date of validity;
- (vi) IREDA/REC/PFC agrees that it shall not require any proof in addition to the written demand by KRC DISCOMs made in any format within the validity period. IREDA/REC/PFC shall not require KRC DISCOMs to justify the invocation of the POI against the SPV/HPD, to

make any claim against or any demand against the SPV/HPD or to give any notice to the SPV/HPD;

(vii) The POI shall be the primary obligation of IREDA/REC/PFC and KRC DISCOMs shall not be obliged before enforcing the POI to take any action in any court or arbitral proceedings against the SPV/HPD;

(viii) Neither KRC DISCOMs is required to justify the invocation of this POI nor shall IREDA/REC/PFC have any recourse against KRC DISCOMs in respect of the payment made under letter of undertaking;

5. Notwithstanding anything contrary contained anywhere in this POI or in any other documents, this POI is and shall remain valid up to \_\_\_\_\_ and IREDA/REC/PFC shall make payment thereunder only if a written demand or request is raised within the said date and to the maximum extent of Rs.....and IREDA/REC/PFC shall in no case, be liable for any interest, costs, charges and expenses and IREDA's/REC's/PFC's liability in no case will exceed more than the above amount stipulated.
6. In pursuance of the above, IREDA/REC/PFC and KRC DISCOMs have signed an Umbrella Agreement dated \_\_\_\_ setting out the terms and conditions for issue of letter of undertaking by IREDA/REC/PFC to KRC DISCOMs and the said terms and conditions shall be read as a part of this letter of undertaking issued for the project of the project of PP mentioned above.

Thanking you,

Yours faithfully

For and on behalf of

M/s.\_\_\_\_\_

(Name of the POI Issuing agency)

(        )

General Manager (TS)

Copy to:-

M/s. \_\_\_\_\_

As per their request

(        )

General Manager (TS)

## **FORMAT-6.4**

### **Format of Board Resolutions**

The Board, after discussion, at the duly convened Meeting on ..... (Insert date), with the consent of all the Directors present and in compliance of the provisions of the Companies Act, 1956 or Companies Act 2013, as applicable, passed the following Resolution:

**1. RESOLVED THAT** Mr/Ms....., be and is hereby authorized to do on our behalf, all such acts, deeds and things necessary in connection with or incidental to our response to RfS vide RfS No. \_\_\_\_\_ dated \_\_\_\_\_ for “Setting Up of 60 MW Grid Connected Wind-Solar Hybrid Power Projects in India”, including signing and submission of all documents and providing information / response to RfS to Mindspace Business Parks Private Limited (MBPPL), Gigaplex Estate Private Limited (GEPL), and KRC Infrastructure and Projects Private Limited (KRCIPPL) (hereinafter referred to as KRC DISCOMs), representing us in all matters before KRC DISCOMs, and generally dealing with KRC DISCOMs in all matters in connection with our bid for the said Project. **(To be provided by the Bidding Company or the Lead Member of the Consortium)**

**2. FURTHER RESOLVED THAT** pursuant to the provisions of the Companies Act, 1956 or Companies Act, 2013, as applicable and compliance thereof and as permitted under the Memorandum and Articles of Association of the Company, approval of the Board be and is hereby accorded to invest total equity in the Project. **(To be provided by the Bidding Company)**

**[Note: In the event the Bidder is a Bidding Consortium, in place of the above resolution at Sl. No. 2, the following resolutions are to be provided]**

**FURTHER RESOLVED THAT** pursuant to the provisions of the Companies Act, 1956 or Companies Act, 2013, as applicable and compliance thereof and as permitted under the Memorandum and Articles of Association of the Company, approval of the Board be and is hereby accorded to invest (----%) equity [Insert the % equity commitment as specified in Consortium Agreement] in the Project.

**(To be provided by each Member of the Bidding Consortium including Lead Member such that total equity is 100%)**

**FURTHER RESOLVED THAT** approval of the Board be and is hereby accorded to participate in consortium with M/s -----[Insert the name of other Members in the Consortium] and Mr/Ms....., be and is hereby authorized to execute the Consortium Agreement.

**(To be provided by the each Member of the Bidding Consortium including Lead Member)**

And

**FURTHER RESOLVED THAT** approval of the Board be and is hereby accorded to contribute such additional amount over and above the percentage limit (specified for the Lead Member in the Consortium Agreement) to the extent becoming necessary towards the total equity share in the Project Company, obligatory on the part of the Consortium pursuant to the terms and conditions contained in the Consortium Agreement dated ..... executed by the Consortium as per the provisions of the RfS. **[To be passed by the Lead Member of the Bidding Consortium]**

**Certified true copy**

----- (Signature, Name and stamp of Company Secretary)

**Notes:**

- 1) This certified true copy should be submitted on the letterhead of the Company, signed by the Company Secretary/ Director.
- 2) The contents of the format may be suitably re-worded indicating the identity of the entity passing the resolution.
- 3) This format may be modified only to the limited extent required to comply with the local regulations and laws applicable to a foreign entity submitting this resolution. For example, reference to Companies Act, 1956 or Companies Act, 2013 as applicable may be suitably modified to refer to the law applicable to the entity submitting the resolution. However, in such case, the

foreign entity shall submit an unqualified opinion issued by the legal counsel of such foreign entity, stating that the Board resolutions are in compliance with the applicable laws of the respective jurisdictions of the issuing Company and the authorizations granted therein are true and valid.

## FORMAT-6.5

### Format of Consortium Agreement

(To be on non-judicial stamp paper of appropriate value as per Stamp Act relevant to place of execution)

THIS Consortium Agreement (“Agreement”) executed on this \_\_\_\_\_ day of

\_\_\_\_\_ Two thousand \_\_\_\_\_ between M/s [insert name of Lead

Member] \_\_\_\_\_ a Company incorporated under the laws of \_\_\_\_\_ and having its Registered Office at \_\_\_\_\_ (hereinafter called the “**Member-1**”, which expression shall include its successors, executors and permitted assigns) and M/s \_\_\_\_\_ a Company incorporated under the laws of \_\_\_\_\_ and having its Registered Office at \_\_\_\_\_ (hereinafter called the “**Member-2**”, which

expression shall include its successors, executors and permitted assigns), M/s \_\_\_\_\_ a Company incorporated under the laws of \_\_\_\_\_ and having its Registered Office at \_\_\_\_\_ (hereinafter called the “**Member-n**”,

which expression shall include its successors, executors and permitted assigns), [The Bidding Consortium should list the details of all the Consortium Members] for the purpose of submitting response to RfS execution of Power Purchase Agreement (in case of award), against RfS No. \_\_\_\_\_ dated \_\_\_\_\_ issued by Mindspace Business Parks Private Limited (MBPPL), a Company incorporated under the Companies Act, 1956 or Companies Act, 2013 as applicable, and having its Registered Office at \_\_\_\_\_ or \_\_\_\_\_ constituted under

WHEREAS, each Member individually shall be referred to as the “Member” and all of the Members shall be collectively referred to as the “Members” in this Agreement.

WHEREAS KRC DISCOMs desires to purchase power under RfS for Setting Up of 60 MW Grid-Connected Wind-Solar Hybrid Power Projects.

WHEREAS, KRC DISCOMs had invited response to RfS vide its Request for Selection (RfS) dated

---

WHEREAS the RfS stipulates that in case response to RfS is being submitted by a Bidding Consortium, the Members of the Consortium will have to submit a legally enforceable Consortium Agreement in a format specified by KRC DISCOMs wherein the Consortium Members have to commit equity investment of a specific percentage for the Project.

NOW THEREFORE, THIS AGREEMENT WITNESSTH AS UNDER:

In consideration of the above premises and agreements all the Members in this Bidding Consortium do hereby mutually agree as follows:

1. We, the Members of the Consortium and Members to the Agreement do hereby unequivocally agree that Member-1 (M/s \_\_\_\_\_), shall act as the Lead Member as defined in the RfS for self and agent for and on behalf of Member-2, ----, Member n and to submit the response to the RfS.
2. The Lead Member is hereby authorized by the Members of the Consortium and Members to the Agreement to bind the Consortium and receive instructions for and on their behalf.
3. Notwithstanding anything contrary contained in this Agreement, the Lead Member shall always be liable for the equity investment obligations of all the Consortium Members, i.e., for both its own liability as well as the liability of other Members.
4. The Lead Member shall be liable and responsible for ensuring the individual and collective commitment of each of the Members of the Consortium in discharging all of their respective

equity obligations. Each Member further undertakes to be individually liable for the performance of its part of the obligations without in any way limiting the scope of collective liability envisaged in this Agreement.

5. Subject to the terms of this Agreement, the share of each Member of the Consortium in the issued equity share capital of the Project Company is/shall be in the following proportion:

Name	Percentage
Member 1	----
Member 2	----
Member 3	----
Member 4	100%

We acknowledge that after the execution of PPA, the controlling shareholding (having not less than 50% of the voting rights and paid-up share capital) in the Project Company developing the Project shall be maintained for a period of (1) one year after commencement of supply of power.

6. The Lead Member, on behalf of the Consortium, shall inter-alia undertake full responsibility for liaising with Lenders or through internal accruals and mobilizing debt resources for the Project, and ensuring that the Seller achieves Financial Closure in terms of the PPA.
7. In case of any breach of any equity investment commitment by any of the Consortium Members, the Lead Member shall be liable for the consequences thereof.
8. Except as specified in the Agreement, it is agreed that sharing of responsibilities as aforesaid and equity investment obligations thereto shall not in any way be a limitation of responsibility of the Lead Member under these presents.
9. It is further specifically agreed that the financial liability for equity contribution of the Lead Member shall not be limited in any way so as to restrict or limit its liabilities. The Lead Member shall be liable irrespective of its scope of work or financial commitments.

10. This Agreement shall be construed and interpreted in accordance with the Laws of India and courts at Mumbai alone shall have the exclusive jurisdiction in all matters relating thereto and arising thereunder..
11. It is hereby further agreed that in case of being selected as the Successful Bidder, the Members do hereby agree that they shall furnish the Performance Guarantee in favour of KRC DISCOMs in terms of the RfS.
12. It is further expressly agreed that the Agreement shall be irrevocable and shall form an integral part of the Power Purchase Agreement (PPA) and shall remain valid until the expiration or early termination of the PPA in terms thereof, unless expressly agreed to the contrary by KRC DISCOMs.
13. The Lead Member is authorized and shall be fully responsible for the accuracy and veracity of the representations and information submitted by the Members respectively from time to time in the response to RfS.
14. It is hereby expressly understood between the Members that no Member at any given point of time, may assign or delegate its rights, duties or obligations under the PPA except with prior written intimation to KRC DISCOMs.
15. This Agreement
  - a) has been duly executed and delivered on behalf of each Member hereto and constitutes the legal, valid, binding and enforceable obligation of each such Member;
  - b) sets forth the entire understanding of the Members hereto with respect to the subject matter hereof; and
  - c) may not be amended or modified except in writing signed by each of the Members and with prior written consent of KRC DISCOMs.
16. All the terms used in capitals in this Agreement but not defined herein shall have the meaning as per the RfS and PPA.

IN WITNESS WHEREOF, the Members have, through their authorized representatives, executed these present on the Day, Month and Year first mentioned above.

For M/s----- [Member 1]

-----  
(Signature, Name & Designation of the person authorized vide Board Resolution Dated [●])

Witnesses:

1) Signature-----

2) Signature -----

Name:

Name:

Address:

Address:

For M/s-----[Member 2]

-----  
(Signature, Name & Designation of the person authorized vide Board Resolution Dated [●])

Witnesses:

Address:

1) Signature -----

Name:

Name:

2) Signature -----

Address:

For M/s-----[Member n]

-----

(Signature, Name & Designation of the person authorized vide Board Resolution Dated [●])

Witnesses:

1) Signature -----

(2) Signature -----

Name:

Name:

Address:

Address:

\_\_\_\_\_  
Signature and stamp of Notary of the place of execution

## **FORMAT-6.6**

### **Format of Financial Requirement**

**[on the letter head of Bidder]**

To,

[Insert name and address of KRC DISCOMs]

Dear Sir,

**Sub: Response to RfS No. \_\_\_\_\_ dated \_\_\_\_\_ for Selection of 60 MW Grid connected Wind-Solar Hybrid Power Projects**

We certify that the Bidding Company/Member in a Bidding Consortium has a Net Worth of Rs.

..... Cr. (.....in words) as on **the end of Financial Year 2023-24, or as on the**

**date at least 7 days prior to bid submission deadline.**

This Net Worth has been calculated in accordance with instructions provided in Clause 3.6.1 C of the RfS.

### **Exhibit (i): Applicable in case of Bidding Company**

For the above calculations, we have considered the Net Worth by Bidding Company and/ or its

Affiliate(s) as per following details:

<b>Name of Bidding Company</b>	<b>Name of Affiliate(s) whose net worth is to be considered</b>	<b>Relationship with Bidding Company*</b>	<b>Net Worth (in Rs. Crore)</b>
<b>Company 1</b>			
<b>Total</b>			

*\*The column for “Relationship with Bidding Company” is to be filled only in case the financial capability of Affiliate has been used for meeting Qualification Requirements. Further, documentary evidence to establish the relationship, duly certified by a practicing company secretary/chartered accountant is required to be attached with the format.*

#### **Exhibit (ii): Applicable in case of Bidding Consortium**

**(To be filled by each Member in a Bidding Consortium separately)**

**Name of Member: [Insert name of the Member]**

Net Worth Requirement to be met by Member in Proportion to the Equity Commitment: Rs.-----  
-----Crore (Equity Commitment (%) \* Rs. [ ] Crore)

For the above calculations, we have considered Net Worth by Member in Bidding Consortium and/ or its Affiliate(s) per following details:

Name of Consortium Member Company	Name of Affiliate(s) whose net worth is to be considered	Relationship with Bidding Company* (if any)	Net Worth (in Rs. Crore)	Equity Commitment (in %age) in Bidding Consortium	Committed Net Worth (in Rs. Crore)
Company 1					
---					
---					
Total					

\* The column for “Relationship with Bidding Company” is to be filled only in case the financial capability of Affiliate has been used for meeting Qualification Requirements. Further, documentary evidence to establish the relationship, duly certified by a practicing company secretary/chartered accountant is required to be attached with the format

**(Signature & Name of the Authorized Signatory)**

**(Signature and Stamp of Chartered Accountant)**

**Membership No.**

**Regn. No. of the CA's Firm:**

Note

- (i) Along with the above format, in a separate sheet on the letterhead of the Chartered Accountant's Firm, provide details of computation of Net Worth and Annual Turnover duly certified by the Chartered Accountant.
- (ii) Certified copies of Balance sheet, Profit & Loss Account, Schedules and Cash Flow Statements are to be enclosed in complete form along with all the Notes to Accounts.

## **FORMAT-6.7**

### **Undertaking**

*(To be submitted on the letterhead of the Bidder)*

We, hereby provide this undertaking to \_\_\_\_\_, in respect to our response to RfS vide RfS No. \_\_\_\_\_ dated \_\_\_\_\_, that M/s \_\_\_\_\_ (insert name of the Bidder), or any of its Affiliates is not a willful defaulter to any lender, and that there is no major litigation pending or threatened against M/s \_\_\_\_\_ (insert name of the Bidder) or any of its Affiliates which are of a nature that could cast a doubt on the ability or the suitability of the Bidder to undertake the Project.

(Name and Signature of the Authorized Signatory)

## **FORMAT-6.8**

### **Format of Disclosure**

**[On the letter head of Bidding Company/ Each Member in a Bidding Consortium]**

### **Disclosure**

We hereby declare and confirm that only we are participating in the RfS Selection process for the RfS No. \_\_\_\_\_ dated \_\_\_\_\_ and that our Parent, Affiliate or Ultimate Parent or any Group

Company with which we have direct or indirect relationship are not separately participating in this selection process.

We further declare that the above statement is true and correct. We are aware that if at any stage it is found to be incorrect, our response to RfS will be rejected and if LOA has been issued or PPA has been signed, the same will be cancelled and the bank guarantees will be encashed and recoveries will be effected for the payments done.

*(Signature & Name of the person Authorized By the board)*

*Date:*

## **FORMAT-6.9**

### **Format of Commitment to Financial Closure**

#### **(On the letter head of the Bidder)**

(to be submitted separately for each Project)

To,

**[Insert name and address of KRC DISCOMs]**

**Dear Sir,**

**Sub: Response to RfS No.\_\_\_\_\_ dated \_\_\_\_\_ for Setting Up of 60 MW  
Grid Connected Wind-Solar Hybrid Power Projects**

We hereby undertake to certify in line with **Clause 3.15** under the title “Financial Closure” that the following details shall be furnished within **12 (Twelve) months** from the Effective Date of the PPA:

1.0 Evidence of achieving 100% tie-up of the Project Cost through internal accruals or through a Financing Agency.

Failure or delay on our part in achieving the above conditions shall constitute sufficient grounds for encashment of our Performance Bank Guarantee.

*(Signature & Name of the Authorized Signatory)*

## FORMAT-6.10

### **Declaration by the Bidder for the Proposed Technology Tie-Up**

**(To be Submitted Separately for each Hybrid Project)**

1	<b>Name of Bidding Company/ Lead Member of Bidding Consortium</b>	
2	<b>Name of the Technology Partner (if any)</b>	
3	<b>Project Location (Village(s), Tehsil, Dist.,State)</b>	
4	<b>Hybrid Project Capacity Proposed</b>	..... <b>MW</b>
	<b>Capacity Breakup (for the purpose of LTA ) i.e. Total Project capacity (AC) MW</b>	
4.B	<b>Solar (AC) MW</b>	..... <b>MW</b>
4.B	<b>Wind (AC) MW</b>	..... <b>MW</b>
5	<b>Estimated Annual Generation of Electrical</b>	..... <b>kWh</b>
5.A	<b>Energy from Solar component of Hybrid Project</b>	..... <b>kWh</b>
5.B	<b>Estimated Annual Generation of Electrical Energy from Wind component of Hybrid Project</b>	..... <b>kWh</b>
7	<b>Brief about the Proposed Technology</b>	
7.A	<b>Solar Power</b>	

	<b>Crystalline Silicon Solar Cells and Modules, Solar Concentrator PV Modules/Thin Film Modules/ Any Other Technology</b>	
<b>7.B</b>	<b>Wind Power</b>	
	<b>Wind Turbine(s) Models from RLMM</b>	

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 20....

Thanking you,

Yours faithfully,

Name,

Designation,

Seal and Signature of Authorized Person in whose name Power of Attorney/ Board Resolution/ Declaration.

## **FORMAT-6.11**

### **Financial Proposal**

#### **Covering Letter**

**(On Bidder's Letter head)**

[Date and Reference]

To,

\_\_\_\_\_

**Sub: Response to RfS No. \_\_\_\_\_ dated \_\_\_\_\_ for Setting Up of 60 MW Grid  
Connected**

**Wind-Solar Hybrid Power Projects.**

Dear Sir,

I/ We, \_\_\_\_\_ (Applicant's name) enclose herewith the Financial  
Proposal for  
selection of my / our firm for a cumulative capacity of \_\_\_\_\_MW as Bidder for above.

I/ We agree that this offer shall remain valid for a period of 180 (One Hundred and Eighty)  
days from the due date of submission of the response to RfS or such further period as may  
be mutually agreed upon.

**Note:**

1. *There can be only one tariff for all the projects indicated. If the Bidder quotes more than one tariff, then the bid shall be considered as non-responsive.*
2. *If the Bidder submits the financial bid in the Electronic Form at DEEP portal not in line with the instructions mentioned therein, then the bid shall be considered as non-responsive.*
3. *Tariff requirement shall be quoted as a fixed amount in Indian Rupees only. Conditional proposal shall be considered as non-responsive and summarily rejected.*
4. *In the event of any discrepancy between the values entered in figures and in words, the values entered in words shall be considered.*
5. *The tariff should be mentioned up to two places of decimal only.*
6. *The Financial bid is not to be mentioned anywhere other than the Electronic Form and only the financial bid mentioned in the Electronic form will be considered for further evaluation*

Authorized Signature

Name & Designation

Address of the Bidder

## **FORMAT-6.11 A**

### **Preliminary Estimate of Cost of Wind-Solar Hybrid Power Project**

(To be submitted separately for each Project)

Project Capacity: .....MW

Location: .....

No standard break-up for the Project Cost, the Bidder shall indicate the break-up in terms of major components in the Hybrid Project.

**(Signature)**

**(Name of Bidder)**

**FORMAT-6.12**  
**Regarding Timelines for Milestones**

<b>D represents Effective Date of PPA</b>		
<b>S No.</b>	<b>Item</b>	<b>Response</b>
a.	Tentative date/month of procurement of RE generating equipment's such as Solar Modules/Panels, Wind turbine etc	- Solar Modules/Panels– D + ---- months - Wind Turbine – D + ----- months
b.	Country of Import, if not domestically Procured	- Solar Modules/Panels ----- - Wind Turbine - ---
C1	Land Procurement	By D + ----- months
C2	Grid Connectivity	-----
C3	Material Procurement	D + ----- months
C4	Start and Completion of construction Activities	Start of construction activities – D + ---- month onwards
		Completion of construction – D + ----- months
C5	Testing and Commissioning	D + ----- months
C6	Scheduled Commencement of Supply Date (SCSD)	D + ----- months
C7	Other documents	

**Annexure-A**

**Revised List of Models and Manufacturers (RLMM) of certified wind turbines to  
be used in Grid connected Wind Power Plants**

RLMM List as updated from time to time, is available on MNRE website.

## **Annexure- B**

### **Check list for Bank Guarantees**

<b>Sl. no.</b>	<b>Details of Checks</b>	<b>Yes/No</b>
<b>1</b>	Is the BG on non-judicial Stamp paper of appropriate value, as per applicable Stamp Act of the place of execution	
<b>2</b>	Whether date, purpose of purchase of stamp paper and name of the purchaser are indicated on the back of Stamp paper under the Signature of Stamp vendor? (The date of purchase of stamp paper should be not later than the date of execution of BG and the stamp paper should be purchased either in the name of the executing Bank or the party on whose behalf the BG has been issued.	
<b>3</b>	In case of BGs from Banks abroad, has the BG been executed on Letter Head of the Bank endorsed by the Indian branch of the same bank or SBI, India	
<b>4</b>	Has the executing Officer of BG indicated his name, designation and Power of Attorney No./Signing Power no. on the BG?	
<b>5</b>	Is each page of BG duly signed / initialled by executant and whether stamp of Bank is affixed thereon? Whether the last page is signed with full particulars including two witnesses under seal of Bank as required in the prescribed proforma?	
<b>6</b>	Do the Bank Guarantees compare verbatim with the Proforma prescribed in the Bid Documents?	
<b>7</b>	Are the factual details such as Bid Document No./Specification No./LOA No. (if applicable)/Amount of BG and Validity of BG correctly mentioned in the BG	
<b>8</b>	Whether overwriting/cutting, if any, on the BG have been properly authenticated under signature & seal of executant?	
<b>9</b>	Whether the BG has been issued by a Bank in line with the provisions of Bidding documents?	
<b>10</b>	In case BG has been issued by a Bank other than those specified in Bidding Document, is the BG confirmed by a Bank in India acceptable as per Bidding documents?	

## **Annexure – C**

### **SPECIAL INSTRUCTIONS TO BIDDERS**

#### **SPECIFIC TO E-BIDDING PORTAL**

The Special Instructions (for e-Tendering) supplement ‘Instructions to Bidders’, as given in these RfS Documents. Submission of Online Bids is mandatory for this RfS.

e-Tendering is a methodology for conducting Public Procurement in a transparent and secured manner. Now, the Government of India has made e-Tendering mandatory. Suppliers/ Vendors will be the biggest beneficiaries of this new system of procurement. For conducting electronic tendering, *KRC DISCOMs* has adopted a secured and user-friendly e-tender system enabling bidders to Search, View, Download tender document(s) directly from the DEEP Portal.

Guide For Bidding	<a href="https://www.mstcecommerce.com/auctionhome/RenderFileGeneralAuctions.jsp?file=Vendors-Guide-PPA.pdf">https://www.mstcecommerce.com/auctionhome/RenderFileGeneralAuctions.jsp?file=Vendors-Guide-PPA.pdf</a>
System Configuration	<a href="https://www.mstcecommerce.com/auctionhome/RenderFileGeneralAuctions.jsp?file=PA-System-Configuration.pdf">https://www.mstcecommerce.com/auctionhome/RenderFileGeneralAuctions.jsp?file=PA-System-Configuration.pdf</a>
Bidder Registration	<a href="https://www.mstcecommerce.com/auctionhome/RenderFileGeneralAuctions.jsp?file=PA-Registration-Guide-Bidder.pdf">https://www.mstcecommerce.com/auctionhome/RenderFileGeneralAuctions.jsp?file=PA-Registration-Guide-Bidder.pdf</a>
DSC Guide	<a href="https://www.mstcecommerce.com/auctionhome/psdf/RenderFilepsdf.jsp?file=DSC_Guide.pdf">https://www.mstcecommerce.com/auctionhome/psdf/RenderFilepsdf.jsp?file=DSC_Guide.pdf</a>

**Annexure-D**

**Check List for Financial Closure**

**(To be signed by the Authorized signatory of the HPD)**

**(RfS No. \_\_\_\_\_ dated \_\_\_\_\_ )**

**Last Date for submission of documents related to Financial Closure –**

**(6 months from Effective Date of PPA)**

Project Company Name \_\_\_\_\_

Project ID: \_\_\_\_\_

LOA No. \_\_\_\_\_ Dtd. \_\_\_\_\_

Effective Date of PPA \_\_\_\_\_

Scheduled Commissioning \_\_\_\_\_

Date \_\_\_\_\_

1. **Financial Closure - (Clause 3. 15 of the RfS, including subsequent amendments & clarifications)**

<b>Details</b>	<b>Presently given in PPA</b>
<b>(1)</b>	<b>(2)</b>
<b>Location</b>	
<b>Technology</b>	
<b>Certificate from all financial institutions</b>	<p><b><u>In case of tie up through Bank / Financial Institutions: -</u></b></p> <p>Document from Bank / Financial Institutions certifying arrangement of necessary funds by way of sanction of Loan (to be enclosed as <b><u>Annexure-I</u></b>).</p> <p><b><u>In case of Internal Resources: -</u></b></p> <p>Copy of Board Resolution, Audited/Certified Balance sheet, Profit &amp; Loss Account Statement, Bank Statement and Cash Flow Statement in support of availability of Internal resources of</p>

	<p>the Project Company and of the Company other than Project Company (in case the required funding will be raised from enclosed as <b><u>Annexure – I</u></b>)</p> <p><i>Performa for the cases where funding will be from Company other than Project Company is at ‘A-1’.</i></p>
--	--

**Note:-**

- i.Copy of Final Detailed Project Report (DPR) is to be enclosed as **Annexure – II A**
- ii.Undertaking by the Project Company that all Consents, clearances and permits required for supply of Power to KRC DISCOMs as per the terms of PPA have been obtained is to be enclosed as **Annexure – II B**
2. Copy of Agreement/ MOU entered into / Purchase Order with acceptance, for the supply of Plants and Equipment (to be enclosed as **Annexure-III**)
3. **Technical Parameters of the Project (Section-IV, Cl. B of the RfS)**
  - a. Certificate from Project Company that Technical specifications and directives given in Annexure-A of the RfS will be adhered to (to be enclosed as **Annexure-IV A**)
  - b. Proposed Project configuration as part of DPR of the Project (to be enclosed as **Annexure-IV B**)
4. Ownership of the HPD: Latest Shareholding Pattern of the Project Company (including Compulsorily Convertible Debentures (CCDs), Compulsorily Convertible Preferential Shares (CCPS) of the Project Company certified by Chartered Accountant (to be enclosed as **Annexure V A**)

**Shareholding pattern is not required to be submitted by a Listed Company.**

**Note:** Declaration of Shareholding Pattern of the Project Company is to be submitted to KRC DISCOMs on monthly basis, i.e., by the 10<sup>th</sup> day of every month for shareholding status of the Company upto the end of the previous month, till 1 year from the date of commissioning of the project.

5. The above checklist is to facilitate financial closure of projects. For any interpretation the respective provision of RfS / PPA shall prevail.

**Proforma 'A-1'**

**For cases where funding will be from a Company other than Project Company**

**Board Resolution from \_\_\_\_\_**  
**(Name of the Company from where the required funding will be raised)**

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED BY THE BOARD OF DIRECTORS OF THE COMPANY AT THEIR MEETING HELD ON \_\_\_\_\_ AT THE REGISTERED OFFICE OF THE COMPANY

RESOLVED that approval of the Board be and is hereby accorded to the company extending unconditional and full financial support whether by way of equity, debt, or a combination thereof, towards meeting the full project cost of Rs. \_\_\_\_\_ (in words and figures) to M/s \_\_\_\_\_ (Name of Project Company), a company within the meaning of The Companies Act, 1956 and/or The Companies Act, 2013, and having its registered office at \_\_\_\_\_ which was selected by KRC DISCOMs to develop the.....MW Wind-Solar Hybrid Power Project (Project ID.....), for generation and sale of power under the RfS No.\_\_\_\_\_ in respect of which Power Purchase Agreement (PPA) was signed between KRC DISCOMs and \_\_\_\_\_ (Name of Project Company). Funds will be released for the project as per the request of \_\_\_\_\_ (Name of Project Company) to meet the financial requirement for the said Project.

**Board Resolution from \_\_\_\_\_ (Project Company)**

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED BY THE BOARD OF DIRECTORS OF THE COMPANY AT THEIR MEETING HELD ON \_\_\_\_\_ AT THE REGISTERED OFFICE OF THE COMPANY

RESOLVED that approval of the Board be and is hereby accorded to the Company which was selected by KRC DISCOMs to develop the.....MW Wind-Solar Hybrid Power Project (Project ID.....), for generation and sale of hybrid power under the RfS No.\_\_\_\_\_ in respect of which Power Purchase Agreement (PPA) was signed between KRC DISCOMs and the Company, to request and undertake to accept unconditional and full financial support and getting release of funds for project as per requirement from the Company i.e. \_\_\_\_\_, a Company within the meaning of The Companies Act, 1956 and/or The Companies Act, 2013, and having its registered office at \_\_\_\_\_ whether by way of equity, debt, or a combination thereof for meeting the financial requirements of the project being developed by the Project Company. Further Resolved that in the event the Company i.e. \_\_\_\_\_, agrees to extend full financial support as sought above, \_\_\_\_\_, Director, \_\_\_\_\_, Director.... be and are hereby severally or collectively authorized to accept any terms and conditions that may be imposed by \_\_\_\_\_ (Name of the Company), for extending such support and that they are also severally or collectively authorized to sign such documents, writings as may be necessary in this connection.

## **Annexure-E**

### **Reference Bidders' Declaration Format associated with Implementation of ALMM Order**

(on the letter head of the bidder)

Declaration

To Whomsoever this may concern

Reference: ( ..... Dated .....

1. We hereby declare that we are fully aware of the binding provisions of the ALMM order and the Lists thereunder, while quoting the tariff in the RfS no. [tender number] floated by KRC DISCOMs.
2. We understand that the List – I (Solar PV Modules) of ALMM Order, Annexure – I of the OM, issued by MNRE on 10<sup>th</sup> March 2021 will be updated by MNRE from time to time. We also understand that the Modules to be procured for this project, shall be from the List – I of the ALMM order applicable on the date of invoicing of such modules.
3. We further understand and accept that we shall be liable for penal action, including but not limited to blacklisting and invocation of Performance Bank Guarantee, if we are found not complying with the provisions of ALMM Order, including those mentioned above.

Name:

Designation:

Organization:

Date:

(Signature and Stamp)

### **Annexure-F**

#### **Self-Undertaking for identification of 100% land for Wind Solar Hybrid project**

We \_\_\_\_\_, having office at -----  
--- \_\_\_\_\_, registered Company under the Companies Act 1956/2013 solemnly affirm  
and state as under:

Whereas, we confirm that we have identified 100% land for the required Project of the capacity of ..... MW, at .....[Insert name of the place] for purchase of \_\_\_\_\_ Wind Solar Hybrid Power as per power purchase agreement executed on between M/s..... and KRC DISCOMs.

Name:

Designation:

Organization:

Date:

(Signature and Stamp)

**STANDARD**

**POWER PURCHASE AGREEMENT FOR**

**PROCUREMENT OF ..... MW WIND-SOLAR HYBRID POWER**

**ON LONG-TERM BASIS**

**Between**

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

**And**

.....[Insert Name of Licensee of the KRC DISCOMs]

..... [Insert month and year]

This Power Purchase Agreement is made on the .....[Insert date] day of .....[Insert month] of ..... [Insert year] at ..... [Insert place]

Between

..... [Insert name of the Hybrid Power Developer], a Company incorporated under the 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

....**(Any one of the Following) (MINDSPACE BUSINESS PARKS PRIVATE LIMITED, GIGAPLEX ESTATE PRIVATE LIMITED, KRC INFRASTRUCTURE AND PROJECTS PRIVATE LIMITED)** a Company incorporated under the Companies Act 1956, having its registered office at ..... (hereinafter referred to as "Procurer" or "Buyer" 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**;

The HPD and Buyer are individually referred to as 'Party' and collectively referred to as 'Parties'.

WHEREAS:

- A. Buyer, in order to fulfil the Renewable Purchase Obligation (RPO) of its Distribution business and to meet the future power requirements, had floated tender for setting-up of Grid connected Wind-Solar Hybrid Power Projects, under the National Wind-Solar Hybrid Policy issued by MNRE dated 14.05.2018. 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. 27/03/2023-RCM dated 21.08.2023, including subsequent amendments and clarifications, if any.
- B. Buyer had initiated a Tariff Based Competitive Bid Process for procurement of 60 MW (30 MW Solar and 30 MW Wind) of power generated from the Grid 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 Buyer 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 consisting of \_\_\_ MW Solar and \_\_\_ MW Wind Power Project to be established by HPD anywhere in India and for supply of such electricity by Buyer;

D. Buyer has issued the Letter of Award No..... dated.....in favour of the [Insert the name of Bidding Company] for development and establishment of the \_\_\_ MW Hybrid Power Project consisting of \_\_\_ MW Solar and \_\_\_ MW Wind 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 Buyer and the Bidding Documents, the HPD has furnished the Performance Bank Guarantee (PBG) in the sum of Rs.....in favour of Buyer as per the format provided as a part of the Bidding Documents and a copy of the Bank Guarantee/PBG provided is in Schedule – 1/ Schedule-2 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 Buyer or sale of electricity from an existing Hybrid Power Project of \_\_\_ commissioned after 31<sup>st</sup> March 2024 at ....., [Insert Project location] for fulfilling its RPO obligation as a Distribution Licensee and to meet its future power requirement;

G. 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 establishment of the Hybrid Power Project at .....,

[Insert name of State] and for generation and supply of electricity by the HPD to Buyer.

**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:**

# 1 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”	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; i. On or before Commercial Operation Date SCSD, 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; ii. An amount equal to the Adjusted Equity as on SCSD shall be deemed to be the base (the “Base Adjusted Equity”); iii. After SCSD, 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 SCSD [reduction of 1% (one percent) per quarter of a year] and the amount so arrived at shall be revised to the extent of variation in WPI occurring between the SCSD and the Reference Date; 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 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"	Unless otherwise stated, Appropriate Commission shall mean Maharashtra Electricity Regulatory Commission;
"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 Procurer, a day other than Sunday or a statutory holiday, on which the banks remain open for business in Mumbai;
"Capacity Utilization Factor" or "CUF"	shall have the same meaning as provided in MERC (Terms and Conditions for Determination of Renewable Energy Tariff) Regulations, 2019 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 MWh/(Y MW*8766)) X100%;
"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 Transmission Utility"	shall mean the Government Company notified by the Central 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.
"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 sixty(60) days or such other longer period as the Parties may agree, commencing from the date of issuance of a HPD Preliminary Default Notice or Procurer 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;

<p>“Contract Year”</p>	<p>shall mean the period beginning from the Effective Date 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:</p> <p>(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 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 provided further that the last Contract Year of this Agreement shall end on the last day of the Term of this Agreement</p>
<p>“Contracted Capacity”</p>	<p>shall mean ..... [Insert capacity] MW contracted with Procurer for supply by the HPD to (-Name of the Licensee-) at the Delivery Point from the Hybrid Power Project. It shall be equal to the Project Capacity as defined;</p>
<p>“Day”</p>	<p>shall mean a day, if not a Business Day, the immediately succeeding Business Day.</p>
<p>“Debt Due”</p>	<p>shall mean the aggregate of the following sums expressed in Indian Rupees outstanding on the Transfer Date:</p> <p>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;</p> <p>All accrued interest, financing fees and charges payable under the Financing Agreements on, or in respect of, the debt referred to in subclause (i.) above until the Transfer Date but excluding:</p> <p>(i) any interest, fees or charges that had fallen due one year prior to the Transfer Date,</p> <p>(ii) any penal interest or charges payable under the Financing Agreements to any Senior Lender,</p> <p>(iii) any pre-payment charges in relation to accelerated repayment of debt except where such charges have arisen due to Utility Default, and</p> <p>(iv) any Subordinated Debt which is included in the Financial Package and disbursed by lenders for financing the Total Project Cost:</p> <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><b>“Delivery Point/ Metering Point/ Interconnection Point”</b></p>	<p>shall mean a single point or multiple points at the voltage level of 33 kV or above of the InSTS/ISTS Sub-station(s) including the dedicated transmission lines connecting the Project/ individual component with the substation system as specified in the RfS document. Metering shall be done at this interconnection point where the power is injected into. For interconnection with grid and metering, the HPD shall abide by the relevant CERC and SERC Regulations, Grid Code, and Central Electricity Authority Regulations as amended from time to time.</p> <p>Pursuant to Article 4.2.5, all charges and losses related to Transmission of power from project up to Delivery point (including but not limited to open access, transmission, wheeling, Unscheduled Interchange, Scheduling, Reactive power, RLDC/SLDC charges, etc.) as notified by the competent authority / regulator shall be borne by the HPD without any reimbursement by the procurer and beyond the Delivery Point all charges and losses as notified by the competent authority / regulator from time to time shall be borne by the Procurer;</p> <p>For intra – State projects, metering shall be at the LV side of the STU substation at which power is injected in the transmission system of STU;</p> <p>For inter - State projects, energy settlement and delivery Point shall be at Maharashtra STU periphery</p>
<p><b>“DISCOMs”</b></p>	<p>shall mean the Respective Discom, i.e., MBPPL/GEPL/KRCIPPL;</p>
<p><b>“Dispute”</b></p>	<p>shall mean any dispute or difference of any kind between Buyer 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><b>“Due Date”</b></p>	<p>shall mean the seventy-fifth (75<sup>th</sup>) day after a Monthly Bill (including all the relevant documents) or a Supplementary Bill is received in hard copy and duly acknowledged by the Buyer 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 Buyer.</p>
<p><b>“Effective Date”</b></p>	<p>shall have the meaning ascribed thereto in Article 2.1 of this Agreement;</p>
<p><b>“Electricity Laws”</b></p>	<p>shall mean the Electricity Act, 2003 and the rules and regulations made there under from time to time along with amendments thereto and replacements thereof and any other Law pertaining to electricity including regulations framed by the Appropriate Commission;</p>

"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 (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) /Generation Credit Note (GCN) from CTU/STU will be considered; Buyer reserves the right to choose from any of the above, i.e. JMR/SEA/REA;
"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 (20) years from the SCSD subject to that the supply of power shall be limited for a period of 20 years from the Scheduled commencement of Supply 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 Buyer;
"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" / "IEGC" or "State Grid Code"	shall mean the Grid Code specified by the CERC under 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, Procurer 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;
“InSTS”	shall mean the Intra-State Transmission System;
“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;
“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;
“MERC”	shall mean Maharashtra Electricity Regulatory Commission;
“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;

“Open Access Charges”	shall mean the charges levied by the CTU/ RLDC / STU/ SLDC for the grant of Open Access as defined in Electricity Act, 2003 and amended time to time;
“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 Procurer 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. Further, the metering of the pooled power shall be done at the injection Point, i.e. the InSTS/ 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”	shall mean the Wind-Solar hybrid power generation facility of Contracted Capacity of ___ MW, The rated capacities of the various components are as follows: Solar PV component: ___ MW Wind Power component: ___ MW This includes all units and auxiliaries such as water supply, treatment or storage facilities; bay/s for transmission system in the switchyard, dedicated transmission line up to the Delivery 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 as per this Agreement;
“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 at the Point of injection on which the Power Purchase Agreement has been signed.

“Project Financing / Arrangements Financial Closure”	shall mean arrangement of necessary funds by the HPD either by way of commitment of funds by the Company from its internal resources and/or tie up of funds through a bank / financial institution by way of a legally binding agreement for commitment of such finances;
“Prudent Utility Practices”	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: a) operation and maintenance guidelines recommended by the manufacturers of the plant and equipment to be incorporated in the Power Project; the requirements of Indian Law; and the physical conditions at the site of the Power Project
“RBI”	shall mean the Reserve Bank of India;
“Rebate”	shall have the same meaning as ascribed thereto in Article 10.3.4 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 Commencement-of-Supply Date (SCSD)”	shall mean ..... [Insert Date];
“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 centre 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	shall mean the solar photovoltaic power project that uses sunlight for conversion into electricity and that is being set up by the HPD to

PV Project”	provide Solar Power to Procurer as per the terms and conditions of this Agreement;
“Solar Power”	shall mean power generated from the Solar Photovoltaic Power Project;
“State Transmission Utility” or “STU”	shall mean the Board or the Government Company notified by the respective State Government under Sub-section (1) of 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-2 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 10 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 5 MW batch size, with last part could be the balance capacity;
"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;

## 1.2 Interpretation

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

1.2.1 “Agreement” shall be construed as including a reference to its Schedules and/or Appendices and/or Annexures;

- 1.2.2 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;
- 1.2.3 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);
- 1.2.4 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;
- 1.2.5 "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;
- 1.2.6 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;
- 1.2.7 "Rupee", "Rupees", "Rs" or new rupee symbol "₹" shall denote Indian Rupees, the lawful currency of India;
- 1.2.8 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;
- 1.2.9 Words importing the singular shall include the plural and vice versa;
- 1.2.10 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;

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

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

1.2.13 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;

1.2.14 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;

1.2.15 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;

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

1.2.17 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;

1.2.18 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

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

### **2.1 Effective Date**

- 2.1.1 This Agreement shall come into effect from (Enter the date as on 30th day of the issuance of Letter of Award to the HPD, or the adoption of Tariff by MERC, whichever is later, as applicable) and such date shall be referred to as the Effective Date.
- 2.1.2 The Parties agree that in the event, the order of adoption of Tariff and the Agreements for procurement of Power, as mentioned above is not given by the MERC within the time specified above, this Agreement shall stand cancelled and terminated with no liability of either party to the other, unless the parties mutually agree to extend the time for fulfilling the Conditions Precedent.
- 2.1.3 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.
- 2.1.4 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, Procurer shall obtain adoption of tariff from MERC, 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 MERC within the time specified above, the provisions of Article 2.1.2 shall apply.
- 2.1.5 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 MERC is issued within the timeline as per Article 2.1.4, no extension for Financial Closure or SCSD shall be given. However, if the requisite MERC order is issued after the timeline as per Article 2.1.4, this shall entail a corresponding extension in Scheduled Financial Closure and the SCSD for equal number of days for which the MERC order has been delayed beyond such period as specified in Article 2.1.4.

## **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 at least one hundred eighty (180) days prior to the Expiry Date, on mutually agreed terms and conditions between the Hybrid Power Developer (HPD) and Procurer.
- 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 Procurer, 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 Procurer or HPD terminates the Agreement, pursuant to Article 13 of this Agreement or if the conditions mentioned in Article 2.1.2 are not satisfied.

## **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 (Force Majeure), Article 13 (Events of Default and Termination), Article 14 (Liability and Indemnification), Article 16 (Governing Law and Dispute Resolution), Article 17 (Miscellaneous Provisions), 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.

### **3 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 Procurer:

- a) The HPD shall make Project financing arrangements for its Projects(s) and shall provide necessary certificates to Procurer in this regard.
- b) The HPD shall obtain for all Consents, Clearances and Permits required for supply of power to Procurer as per the terms of this Agreement. Procurer shall have no obligation to recommend to any department/agency or the Govt. for the grant/permission for the Hybrid Power 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 Procurer in regard to grant of such consents and permits or any other approval to be taken by the HPD shall only be a voluntary endeavour with no intention of being bound by any legal or binding obligation.
- c) 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 at the Project site.
- d) HPD shall submit power evacuation/ Connectivity Agreement of successful bidder with CTU/ STU/DISCOM.
- e) The HPD shall furnish necessary documents to establish that the required land for project development is in 100% clear possession of the HPD.
- f) The HPD shall submit to Procurer the relevant documents as stated above, complying with the Conditions Subsequent, within twelve (12) months from the Effective Date.

#### **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, Procurer shall encash the Performance Bank Guarantee submitted by the HPD, and terminate this Agreement 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 not owing to any action or inaction on the part of the HPD or caused due to a 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 7<sup>th</sup> day of the above notice.

3.2.2 An extension, without any impact on the SCSD, can however, be considered, on the sole request of HPD, on payment of Rs. 1000/- per day per MW to Procurer. Such extension charges are required to be paid to Procurer 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 Procurer is more than 7 days, the termination of the Agreement shall take effect upon the expiry of such 7<sup>th</sup> day. This amount will go into the Payment Security Mechanism. 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 Procurer without interest. This extension will not have any impact on the SCSD. Any extension charges paid so by the HPD, shall be returned to the HPD without any interest on achievement of successful commissioning within the SCSD, on pro-rata basis, based on the project capacity commissioned as on SCSD. However, in case the HPD fails to commission the Contract Capacity by SCSD, the extension charges deposited by the HPD shall not be refunded by Procurer. 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 3.1.

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 SCSD.

### **3.3 Performance Bank Guarantee**

3.3.1 The Performance Bank Guarantee (PBG) having validity from the date of submission of PBG until nine (9) months from the SCSD having a value of Rs. 25 Lakh/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 terms of this Agreement on the part of the HPD.

If the HPD fails to commence supply of power from the Scheduled commencement of supply Date specified in this Agreement or any further extension thereof granted by Procurer, subject to conditions mentioned in Article 4.5, Procurer shall 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 Procurer under this Agreement. It is to be noted that the damages/dues recovered by Procurer by encashing the PBG, upon the default of the HPD under the PPA, shall be credited to the payment security fund maintained by Procurer under the PPA.

### **3.4 Return of Performance Bank Guarantee**

3.4.1 Subject to Article 3.3, Procurer shall return / release the Performance Bank Guarantee immediately after the successful Commissioning of the Project

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 Procurer under this Agreement.

## **4 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 and associated infrastructure for development of the Project and for Connectivity with the CTU System for confirming the evacuation of power by the SCSD and all clearances related thereto;
- b) On or before SCSD or extended SCSD, 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 SCSD. Wherever leasing of private land is involved, the lease should allow transfer of land to the lenders or Procurer, 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;
- c) 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. Procurer shall have no obligation to recommend to any department/agency or the Govt. for the grant/permission for the Hybrid Power project. The Hybrid Power Developer shall, on his own, obtain permissions/ sanctions from Government authorities, if any required for establishing the project. Any steps that may be taken by Procurer in regard to grant of such consents and permits or any other approval to be taken by the HPD shall only be a voluntary endeavour with no intention of being bound by any legal or binding obligation.

- d) 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.
- e) the commencement of supply of power up to the Contracted Capacity to Procurer no later than the SCSD and continuance of the supply of power throughout the term of the Agreement;
- f) 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.
- g) owning the Power Project throughout the Term of Agreement free and clear of encumbrances, except those expressly permitted under Article 15.
- h) maintaining its controlling shareholding (controlling shareholding shall mean more than 50% of the voting rights and paid-up share capital) prevalent at the time of signing of PPA up to a period of one (1) year after Commercial Operation Date of the Project in line with Clause 3.5 of the RfS; However, transfer of controlling shareholding within the same Group Companies will be allowed with the permission of Buyer after SCSD subject to the condition that the management control remains within the same Group Companies.
- f) fulfilling all obligations undertaken by the HPD under this Agreement.
- g) Obtaining appropriate Transmission Connectivity Access and executing transmission service agreement with CTU/STU as the case may be, for evacuation of the Contracted Capacity and maintaining it throughout the term of the Agreement.

The HPD shall be responsible for directly coordinating and dealing with the corresponding Load Dispatch Centres, Regional Power Committees, and other authorities in all respects regarding 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.

- h) The HPD shall fulfil the technical requirements according to criteria mentioned under Annexure II—Technical requirement for Grid Connected Solar PV Power Stations under Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar Power Projects, issued by Ministry of Power, vide Resolution no.23/27/2017-R&R dated 03.08.2017, including subsequent amendments and clarifications. 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 cells and modules used in the Project under this RfS shall be sourced only from the models and manufacturers included in the List-I and/or List-II as published by MNRE under its O.M. dated 10.03.2021 on the subject “Approved Models and Manufacturers of Solar Photovoltaic Modules (Requirement of Compulsory Registration) Order, 2019-Implementation-Reg.” and its subsequent amendments and clarifications, and updated as on the 30<sup>th</sup> day prior to the bid submission deadline for this RfS.
- i) The wind power projects will be developed as per Guidelines issued by the Government on Development of Wind Power Projects.
- j) 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,
- k) 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 concerned for the corridor of power flow, including the RLDC of the Procurer, 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.
- l) 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 Procurer and shall indicate: (a) Land acquisition status, (b) appropriate open access status, (c) Design completion status, (d) Status of financial closure, (e) percentage of supply materials /equipment procured status and (f) 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, 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 up to and including at the Interconnection Point associated with this arrangement will also be borne by the HPD.
- 4.2.4 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 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 InSTS/ISTS network, the total quantum of connectivity as well as that of the appropriate Open Access, to be sought by the HPD shall not exceed the Contracted Capacity as per the PPA for the said Project.

For example, in case the Contracted Capacity of the Project is 30 MW under the PPA with the three Licensees under Procurer, and the HPD chooses to seek connectivity and appropriate Open Access at 2 separate injection Points for “A MW” and “B MW” respectively, the sum of total quantum of connectivity sought under the PPA (A+B) should not exceed 30 MW.

4.2.5 Government of India, from time to time, issues order for waiver of inter-State transmission system (ISTS) charges and losses 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, Procurer shall bear no liability with respect to transmission charges and losses levied, if any. In case the SCSD of the Project is before the date till above ISTS waiver is applicable, and if the Project is granted extension in the SCSD on account of Force Majeure, or for delay on the part of the transmission provider in providing the transmission even after having taken the requisite steps in time; or on account of delays on the part of any Government Agency, and the Project is commissioned before the extended SCSD, it will get benefit of waiver of inter-State transmission charges. However, in case the commissioning of the Project gets delayed beyond the applicable date of ISTS waiver/extended SCSD as above, due to reasons attributable to the HPD, the liability of transmission charges and losses would be to the account of the HPD.

### **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 Procurer and Procurer undertakes to pay Tariff for all the energy supplied at the Delivery Point corresponding to the Contracted Capacity.
- 4.3.2 Energy procured from the Project under this Agreement shall be allocated on the basis, which have been described under the referred RfS.

4.3.3 It will be entirely the HPD's responsibility to make payments to CTU/STU for the consumption of reactive energy. The HPD shall comply with the Orders issued by CERC/ SERC from time to time.

#### **4.4 Right to Contracted Capacity & Energy**

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

4.4.2 If for any Contract Year, except for the Contract Year ending on 31<sup>st</sup> March immediately after the SCSD of the Project, it is found that the HPD has not been able to supply at Delivery Point to Buyer, 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 Buyer. 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 as well as Maximum CUF will, however be relaxable by Buyer 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 @ 150% (hundred percent) of the PPA Tariff. This compensation shall not be applicable in events of Force Majeure identified under PPA with Procurer affecting supply of power by HPD.

4.4.3 Any excess generation over and above as per Article 4.4.1, may be purchased by Procurer at PPA tariff in terms as per Article 9. 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/MoP guidelines, it will not be allowed to sell any excess power to any other entity other than Procurer (unless refused by Procurer). 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.

4.4.4 The HPD will be free to re-power their plants during the PPA duration. However, the Procurer will be obliged to buy power only within the range of committed effective CUF, specified in the PPA. Any shortfall/excess generation will be dealt as specified in Article 4.4.2 and 4.4.3 of this PPA. The developer may upgrade and repower their plants during the PPA period at its own risk and cost; and participate in subsequent bids to the extent of their untied capacity.

4.4.5 The HPD shall be required to intimate Procurer about the proposed excess quantum of energy likely to be generated from the Project within any Contract Year, at least 30 days prior to the proposed date of commencement of excess generation. Procurer shall be required to intimate its approval/refusal to the HPD, for buying such excess generation not later than 15 days of receiving the above offer from the HPD. In the event the offer of the HPD is not accepted by Procurer within the said period of 15 days, such right shall cease to exist and the HPD may, at its sole discretion, sell such excess power to any third party.

4.4.6 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. However, if grid requirement is met then the Generator is allowed to supply power from the RE power plant in excess of contracted capacity, to any third party or power exchange without requiring any No- Objection Certificate (NOC) from the Procurer. HPD may also sell the power which was offered on day ahead basis to the Procurer (within Contracted Capacity) but not scheduled by the Procurer, to any third party or in Power Exchange without requiring NOC from the Procurer.

- 4.4.7 Any energy produced and flowing into the grid before SCSD shall not be at the cost of Procurer. Procurer may agree to buy such power at a tariff as agreed to between Procurer and HPD.

#### **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 SCSD due to:
  - a) any Procurer Event of Default; or
  - b) Force Majeure Events affecting Procurer, or
  - c) Force Majeure Events affecting the HPD, the SCSD and the Expiry Date shall be deferred, for a reasonable period but not less than 'day for day' basis, to permit the HPD or Procurer through the use of due diligence, to overcome the effects of the Force Majeure Events affecting the HPD or Procurer, or till such time such Event of Default is rectified by Procurer.
- 4.5.2 Subsequent to grant of connectivity, in case there is a delay in grant/operationalization of GNA/GEOA/appropriate Open Access by the CTU/STU and/or there is a delay in readiness of the InSTS/ISTS substation at the Delivery Point, including readiness of the power evacuation and transmission infrastructure of the InSTS/ISTS network until SCSD 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; and
- (iii) The delay in grant of connectivity/appropriate Open Access by the CTU/STU and/or delay in readiness of the InSTS/ISTS substation at the Delivery Point, including readiness of power evacuation and transmission infrastructure of the InSTS/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 SCSD 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/GEOA/appropriate Open Access. Decision on requisite extension on account of the above factor shall be taken by Procurer.

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 SCSD.

- 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 SCSD 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 SCSD and newly determined Expiry Date shall be

deemed to be the SCSD and the Expiry Date for the purposes of this Agreement.

4.5.6 Delay in commissioning of the project beyond the SCSD for reasons other than those specified in Article 4.5.1 and 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 SCSD as defined in this Agreement. If the HPD is unable to commission the Project by the SCSD for reasons other than those specified in Article 4.5.1 and 4.5.2, the HPD shall pay to Procurer, damages for the delay in such commissioning and making the Contracted Capacity available for dispatch by the SCSD as per the following:

- (a) Delay beyond the SCSD up to (and including) the date as on 6 months after the SCSD, 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 30 MW capacity, if commissioning of 15 MW capacity is delayed by 2 months beyond the SCSD, then the liquidated damages shall be: PBG amount  $X (15/30) X (2/6)$ . 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 SCSD of the Project. In case, the commissioning of the Project is delayed beyond 6 months after the SCSD, 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 SCSD 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 Procurer.

#### **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.

4.7.2 The HPD shall be responsible for the delivery of energy conforming to Performance Standards for Transmission and Bulk Supply as approved by MERC.

#### **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 Procurer and a third Party nominated by Procurer for inspection and verification of the works being carried out by the HPD at the site of the Power Project.

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 Procurer being in compliance of its obligations and 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 Grid Unavailability Beyond Delivery Point:**

During the operation of the plant, there may be some periods where the plant can generate power but due to temporary transmission unavailability beyond Delivery Point, the power is not evacuated for reasons not attributable to the Successful Bidder. In such cases the generation compensation shall be addressed by Procurer in following manner:

<b>Duration of Grid unavailability</b>	<b>Provision for Generation Compensation</b>
Grid un-availability in a contract year as beyond 50 hours in a Contract Year as defined in the PPA	<p><i>Generation Compensation= ((Tariff X RE power (MW) offered but not scheduled by Procurer)) X 1000 X No. of hours of grid unavailability.</i></p> <p>However, in case of third-party sale or sale in the power exchange, as price taker, the 95% of the amount realised, after deducting expenses, shall be adjusted against the Generation compensation payable, on monthly basis.</p>

##### **4.10.2 Payment in case of reduced offtake:** In case the HPD is available to supply power but the off take of power is not done by KRC DISCOMs, including non-dispatch of power due to non-compliance with “Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 notified by the Ministry of Power vide Gazette notification dated 3rd June 2022” and any clarifications or amendment thereto, considering the principle of “must run” status for RE Power, the Generator shall be eligible for payment from the

Procurer, corresponding to the reduced off take, in terms of following manner:

Reduced Off-take	Provision for Generation Compensation
Reduced off-take beyond 50 hours in a Year.	<p><i>Generation Compensation = (Tariff x RE power (MW) offered but not scheduled by Procurer) X 1000 X No. of hours of Reduced</i></p> <p>However, in the case of third-party sale or sale in the power exchange, as price taker, the 95% of the amount realized, after deducting expenses, shall be adjusted against the Generation compensation payable, on monthly basis.</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/JMR. No Trading Margin shall be applicable on the Generation Compensation as provided in Article 4.10.2.

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. 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.

It is clarified that Article 4.10.2 shall not be applicable, if in future, Merit Order Despatch is made applicable to generation from renewable sources; from Hybrid power project in this case.

In the event, where KRC DISCOMs does not schedule power on account of unavailability of the Transmission Infrastructure or any other eventuality, the penalty will be in accordance with the Electricity (Promotion of Generation of Electricity from Must-Run Power Plant) Rules, 2021, as amended from time to time.

For claiming compensation, HPD must sell their power in the Power Exchange as a price taker. Thus, the compensation would be limited to the

difference of the actual generation up to declared capacity subject to a maximum of up to the contracted capacity and the quantum of power scheduled by the procurer.

## **5 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/concerned authority and Procurer at least sixty (60) days' advance preliminary written notice and at least thirty (30) days' advance 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 Regulations 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 Procurer. In addition, the HPD will inject in-firm power to the grid from time to time to carry out operational/ functional test prior to commercial operation. Procurer shall not be liable to pay any price to HPD for such infirm Power injected. For avoidance of doubt, it is clarified that Synchronization / Connectivity of the Project with the grid shall not be considered as Commissioning of the Project.
- 5.1.5 The HPD shall commission the Project as detailed in “Schedule 2: Commissioning Procedure” within Eighteen (18) Months of the Effective Date. Declaration of Commencement of Supply Date shall only be done

subject to the demonstration of the compliances as per Schedule-2 and subsequent upon the successful visit by the Commissioning Committee.

5.1.6 There can be part Commencement of the Project subject to minimum capacity of the project. The minimum capacity for acceptance of first part commissioning at one project site shall be 50% of the Project Capacity or 10 MW whichever is lower, without prejudice to the imposition of penalty, in terms of the PPA on the part, which has not commenced supply. Part commencement of supply of the project shall also mean that all equipment corresponding to the part capacity have been installed and commissioned and corresponding energy has flown into the grid.

Part commencement 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 Procurer, liquidated damages for delay, etc., the SCSD or extended SCSD as defined in this Agreement shall be the relevant date.

## **5.2 Early Commencement of supply**

5.2.1 The HPD shall be permitted for full commissioning as well as part commissioning of the Project even prior to the SCSD, subject to availability of transmission connectivity and General Network Access(GNA).

5.2.2 Early commissioning of the Project will be allowed solely at the risk and cost of the HPD and first right of refusal for offtake of such power will be vested with the Procurer. In case Procurer agrees to purchase power from such early part/full commencement of power supply prior to SCSD, such power will be purchased at the PPA tariff. Such intimation for early commissioning shall be provided to Procurer, at least 60 days prior to the proposed early commissioning date. In case there is no response provided by Procurer within 30 days from the receipt of such intimation, such early commissioned capacity shall be deemed to have been refused by or (-Name of the Licensee).

5.2.3 In case Procurer 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, until SCSD or the date of commencement of procurement of power from the Project as notified by Procurer, whichever is earlier. In such cases a Provisional Commissioning Certificate will be issued to HPD for period up to SCSD 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. SCSD of the Project under the PPA will be declared from the date of commencement of procurement of energy from the Project by Procurer.

## **6 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 / MERC / SLDC / RLDC or any other competent agency and same being recognized by the SLDC or any other competent authority / agency as per applicable Regulations/ 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 Regulations / guidelines / directions and any financial implication on account of this shall be on the account of the HPD. The HPD shall make arrangements for scheduling of wind and solar power from the respective components of the Project, if required by the Buyer.
- 6.1.2 The HPD shall be responsible for directly coordinating and dealing with the Procurer, State Load Dispatch Centres, 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 Procurer are the Grid connected entities in respect of the power contracted under this Agreement. 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.
- 6.1.3 UI charges on this account shall be directly paid by the HPD.
- 6.1.4 Hybrid Power Developer shall be responsible for arrangement of start-up power/auxiliary consumption with no cost to Procurer.
- 6.1.5 Auxiliary power consumption will be treated as per the concerned State Regulations.

## 7 ARTICLE 7: METERING

### 7.1 Meters

7.1.1 The metering Point will be as given below:

- (i) For Intra-State projects, metering shall be at the LV side of pooling substation of Maharashtra STU.
- (ii) For Inter-State projects, energy settlement and delivery Point shall be at Maharashtra STU periphery at the LV side of CTU/STU Substation.

7.1.2 For the purpose of energy accounting, the ABT compliant meter with Automated Meter Reading (AMR) feature shall be installed by the HPD at the Metering Point.

7.1.3 For installation of Meters, Meter testing, Meter calibration and Meter reading and all matters incidental thereto, the HPD and Procurer shall follow and be bound by the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2014 and the Maharashtra Grid Code, as amended and revised from time to time.

7.1.4 The HPD shall bear all costs pertaining to installation, testing, calibration, maintenance, renewal and repair of meters at HPD's side of Delivery Point.

7.1.5 In addition to ensuring compliance of the applicable codes, the HPD shall install Main and Check meters at the Delivery Point, along with Stand-by meter(s) as per the applicable Central/State Regulations.

7.1.6 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 Regulations/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, Procurer and the concerned Ministry or concerned agency as per applicable Regulation / directions.
- 7.2.3 In addition to the abovementioned data, the HPD shall also be required to submit information, as required by Procurer, for regular monitoring of status of the Project.

### **7.3 Testing of the metering equipment:**

- 7.3.1 The Main and Check Meters shall be tested for accuracy, with a portable standard meter, by the National accredited Labs and sealed by HPD at its own cost. HPD/STU/CTU shall carry out the calibration, periodical testing, sealing and maintenance of meters in the presence of the authorized representative(s) of the Procurer and the representative of the HPD shall sign on the results thereof.
- 7.3.2 The frequency of meter testing shall be annual. All the meters will be tested only at the Metering Point. HPD will provide a copy of the test reports to Procurer.
- 7.3.3 If during testing, both the Main and Check Meter are found within the permissible limit of error, i.e., 0.2%, the energy computation will be as per the Main Meter. If during test, any of the Main Meters is found to be within the permissible limits of error but the corresponding Check Meter is beyond the permissible limit; the energy computation will be as per the Main Meter. The Check Meter shall be calibrated immediately.
- 7.3.4 If during the tests, any of the Main Meters is found to be beyond permissible limits of error, but the corresponding Check Meters is found to be within the permissible limits of error, then the energy computation for the month upto date and time of such test check shall be in accordance with Check Meter. The Main Meter shall be calibrated immediately and the energy for the period thereafter shall be as per the calibrated Main Meter.

7.3.5 Whenever difference between the readings of the Main Meter and the Check Meter for any month is more than 0.2%, the following steps shall be taken:

- Checking of CT and PT connections
- Testing of accuracy of meter at site with reference standard meter of accuracy class higher than the meter under the test.

If difference exists even after such checking or testing, then defective meter shall be replaced with a correct meter.

7.3.6 In case of consumption failures like burning of meter and erratic display of metered parameters and when error found in testing of meter is beyond the permissible limit or error provided in relevant standard, the meter shall be immediately replaced with a correct meter.

7.3.7 If during any of the monthly meter readings, the variation between the Main Meter and the Check Meter is more than 0.5%, all the meters shall be re-tested and calibrated immediately by HPD with no cost to Procurer. During this period energy recorded with SCADA shall be used for billing and payment purposes.

7.3.8 For all times the reading of the Main Meter only will be considered except in rarest conditions such as maintenance, repairs, testing or discrepancy in meter reading with compare to check meters then the Check Meter reading may be considered.

#### **7.4 Sealing and Maintenance of Meters**

7.4.1 The Main Metering System and the Backup Metering System shall be sealed in the presence of representatives of HPD, STU/CTU and Procurer.

7.4.2 When the Main Metering System and / or Backup Metering System/Check Metering System and / or any component thereof is found to be outside the acceptable limits of accuracy or otherwise not functioning properly, it shall be repaired, re-calibrated or replaced by the HPD and / or CTU/STU/Procurer at HPD's cost, as soon as possible.

7.4.3 Any meter seal(s) shall be broken only by CTU/STU/Procurer representative in the presence of Power Producer's representative whenever the Main Metering System or the Backup Metering System is to be inspected, tested, adjusted, repaired or replaced.

7.4.4 All the Main and Check Meters shall be calibrated at least once in a period of one year.

7.4.5 In case, both the Main Meter and Check Meter are found to be beyond permissible limit of error, both the meters shall be calibrated immediately and the correction applicable to main meter shall be applied to the energy registered by the Main Meter at the correct energy for the purpose of energy accounting /billing for the actual period during which inaccurate measurements were made, if such period can be determined or, if not readily determinable, shall be the shorter of:

- The period since immediately preceding test of the relevant Main meter, or
- One hundred and eighty (180) days immediately preceding the test at which the relevant Main Meter was determined to be defective or inaccurate.

## 7.5 Records

7.5.1 Each Party shall keep complete and accurate records and all other data required by each of them for the purposes of proper administration of this Agreement and the operation of the Power Plant. Among such other records and data, the HPD shall maintain an accurate and up-to-date operating log at the Power Plant with records of:

- Fifteen (15) minute logs of real and reactive power generation, frequency, transformer tap position, bus voltage(s), Main Meter and Back up Meter Readings and any other data mutually agreed;
- any unusual conditions found during operation / inspections;
- chart and printout of event loggers, if any, for system disturbances/ outages;
- All the records will be preserved for a period of 36 months.
- The Hybrid Power Developer shall submit the reports on various parameters at its own cost to MNRE/SLDC/MEDA or any other authority, as required by the prevailing Regulations, Guidelines, if any.

## **8 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, Procurer shall have claim on such proceeds of such Insurance.

### **8.3 Effect on liability of Procurer**

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 Procurer. 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.

## **9 ARTICLE 9: APPLICABLE TARIFF**

9.1.1 The HPD shall be entitled to receive the Tariff of Rs. ....../ kWh [Insert the Tariff discovered through the bidding process conducted by Procurer], fixed for the entire term of this Agreement, In cases of early part-Commissioning (if applicable), till SCSD, subject to the consent for such purchase by Procurer, Procurer may purchase the generation at 75% (seventy-five per cent) of the PPA Tariff. However, in case the entire Project Capacity is commissioned prior to SCSD, Procurer may purchase energy supplied till SCSD at [Insert applicable Tariff]/kWh, subject to consent of Procurer for procurement of such power.

9.1.2 Any excess generation over and above energy specified in Article 4.4.1, will be purchased by Procurer at 100% of the tariff as per Article 9.1.1, provided Procurer consents for purchase of such excess generation. Any energy produced and flowing into the grid before SCSD shall not be at the cost of Procurer. However, the HPD will not be allowed to sell energy generated prior to SCSD or excess energy during any Contract Year to any other entity other than Procurer (unless refused by Procurer).

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

### **10.1 General**

- 10.1.1 From the commencement of supply of power, Procurer 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 Procurer shall be in Indian Rupees.
- 10.1.2 For the purpose of payment of the bills raised by the HPD, in case Energy Account is not available, payment to the HPD for the energy delivered shall be based on Automated Meter Reading (AMR)/ Meter Reading Instrument (MRI)/ Joint Meter Readings (JMR) taken for the HPD's Project at the Pooling substation/metering Point the Scheduled/Delivered Energy as certified by SLDC/Appropriate authority.
- 10.1.3 The HPD shall be required to make arrangements and payments for import of energy (if any) as per applicable regulations.

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

- 10.2.1 The HPD shall issue to Procurer 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 drawal 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.
- 10.2.3 All charges pertaining to obtaining open access and scheduling of power, if any, shall be borne by the HPD as per applicable Regulation(s) of the Appropriate Commission(s)/respective SERC(s).

### **10.3 Payment of Monthly Bills**

10.3.1 Procurer 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 Procurer, if any, from the HPD, will be adjusted from the monthly energy payment.

In case of any excess payment adjustment, 1.25% surcharge will be applicable on day to day basis.

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 Procurer to the HPD, and notify Procurer of the details of such account at least ninety (90) Days before the dispatch of the first Monthly Bill. Procurer shall also designate a bank account at Mumbai ("Procurer Designated Account") for payments to be made by the HPD to Procurer, if any, and notify the HPD of the details of such account ninety (90) Days before the SCSD. Procurer and the HPD shall instruct their respective bankers to make all payments under this Agreement to the HPD's Designated Account or Procurer Designated Account, as the case may be, and shall notify either Party of such instructions on the same day.

#### **10.3.4 Late Payment Surcharge**

In the event of delay in payment of a Monthly Bill by Procurer beyond Due Date, a Late Payment Surcharge shall be payable to the HPD at the rate of 1.25% per month on the outstanding amount calculated on a day to day basis. The Late Payment Surcharge shall be claimed by the HPD through the Supplementary Bill.

10.3.5 Subject to the Article 9 of this Agreement, in the event of early Commissioning of the Project and subject to acceptance by Procurer, the payment for the power fed to the grid may be accounted from the date of SCSD (as applicable), and HPD would be allowed to raise Bills against such

power as per Article 10.2.1 and Article 10.2.2, subject to the conditions as stipulated in Article 9.

#### 10.3.6 **Rebate**

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

- a) A Rebate of 1.5% shall be allowed to the Procurer 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 of the date of presentation of Bill through hard copy up to 45 days from 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 Procurer.
- d) No Rebate shall be allowable 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**

#### **Letter of Credit (LC):**

- 10.4.1 Procurer shall provide to the HPD, in respect of payment of its Monthly Bills and/or Supplementary Bills, Adequate payment security shall be provided as per Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 including amendments and clarification, if any, thereof, issued from time to time. To this end, 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.

10.4.2 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 the estimated average monthly billing based on the Annual energy as described in 4.4.1
- (ii) for each subsequent Contract Year, equal to the average of the Monthly Tariff Payments of the previous Contract Year

10.4.3 Before the start of supply, Procurer shall, through a scheduled bank open a Letter of Credit in favour 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 the estimated average monthly billing;
- ii) for each subsequent Contract Year, equal to the average of the monthly billing of the previous Contract Year.

10.4.4 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 drawal in a Month.

10.4.5 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, Procurer shall restore such shortfall before next drawal.

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

10.4.7 Procurer shall ensure that the Letter of Credit shall be renewed not later than its expiry.

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

10.4.9 If Procurer 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 and 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 along with copy of Metering statement (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 the Procurer 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 the Procurer disputes the amount payable under a Monthly Bill or a Supplementary Bill, as the case may be, it shall pay 100% of the undisputed 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 Procurer 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 Procurer under Article 10.5.4, authorized representative(s) or a director of the board of directors/ member of board of the Procurer and HPD shall meet and make best endeavours 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 the despite a dispute regarding an invoice, Procurer 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 Procurer 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) Adjustments required by the Energy Accounts (if applicable); or
- 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 Procurer 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 adjustment required by energy account and payments under Article 4.10, Rebate as applicable to Monthly Bills pursuant to Article 10.3.5 shall equally apply. No late payment surcharge will be applicable other than that on the monthly energy payment and associated debit and credit note.

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.

## **11 ARTICLE 11: FORCE MAJEURE**

### **11.1 Definition of Force Majeure**

11.1.1 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.

11.1.2 An Affected Party means Procurer 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 or any natural calamity/event 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 ionising 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) nationalisation 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 unauthorised 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, licence, 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 Procurer 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:

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

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. 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**

### **11.9.1 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**

If the Force Majeure Event or its effects continue to be present beyond the period as specified in Article 4.5.3, termination of this Agreement shall be caused solely at the discretion of Procurer and there shall not be any liability to Procurer arising out of such termination. In such an event, this Agreement shall terminate on the date of such Termination Notice issued by Procurer without any further liability to either Party from the date of such termination.

## 12 ARTICLE 12: CHANGE IN LAW

### 12.1 Definitions

In this Article 12, the following terms shall have the following meanings:

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

- (i) the enactment coming into effect, adoption, promulgation, of any new law; or
- (ii) an amendment, modification, or repeal of an existing law; or
- (iii) the requirement to obtain a new consent, permit or licence; or
- (iv) any modification to the prevailing conditions prescribed for obtaining a consent, permit or licence, not owing to any default of the Hybrid Power Developer; or
- (v) any change in the rates of any Taxes including any duties and cess or introduction of any new tax/cess/duty made applicable for setting up the hybrid power project and supply of power from the Project by the HPD, which have a direct effect on the Project.

However, Change in Law shall not include (i) any change in taxes on corporate income or (ii) any change in any withholding tax on income or dividends distributed to the shareholders of the HPD.

In the event a Change in Law results in any adverse financial loss/ gain to the Hybrid Power Developer then, in order to ensure that the Hybrid Power Developer is placed in the same financial position as it would have been had it not been for the occurrence of the Change in Law, the Hybrid Power Developer / Procurer shall be entitled to compensation by the other party, as the case may be, subject to the condition that the quantum and mechanism of compensation payment shall be determined and shall be effective from such date as may be decided by the MERC.

In the event of any decrease in the recurring/ nonrecurring expenditure by the HPD or any income to the HPD on account of any of the events as indicated above, HPD shall file an application to the appropriate Commission no later than sixty (60) days from the occurrence of such event, for seeking

approval of Change in Law. In the event of the HPD failing to comply with the above requirement, in case of any gain to the HPD, Procurer shall withhold the monthly tariff payments on immediate basis, until compliance of the above requirement by the HPD.

## **12.2 Relief for Change in Law**

- 12.2.1 The aggrieved Party shall be required to approach the MERC for seeking approval of Change in Law.
- 12.2.2 The decision of the MERC to acknowledge a Change in Law and the date from which it will become effective, and provide relief for the same, shall be final and governing on HPD and Buyer.
- 12.2.3 In case of Change in Law as approved by MERC pursuant to Article 12.2.1 or as provided under Article 12.1.3, the HPD/ Procurer shall be entitled for relief as per the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 notified by Ministry of Power vide notification dated 22nd October 2021 including amendments and clarification thereof issued from time to time.
- 12.2.4 The pass through according to the formula stipulated above shall be calculated and shall come into effect automatically after 30 days of the Change in Law event.
- 12.2.5 Within 30 days of the pass through coming into effect the Generator/ Intermediary Procurer/Procurer shall submit the relevant documents/ calculation sheets to the Appropriate Commission for truing up the rate of pass through per unit.
- 12.2.6 The Appropriate Commission shall verify the calculation and do the truing up within 60 days of the pass through coming into effect after which the rates of pass through shall be adjusted if necessary according to the truing up.
- 12.2.7 In case Change in Law results in delay in commissioning or supply of power, where cause and effect between these two can be clearly established, the Procurer under intimation to the HPD may provide suitable time-extension in SCSD or Scheduled Date of Commencement of Supply of Power, as the case may be.

12.2.8 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 12.2.3 to Procurer. In the event of the HPD failing to comply with the above requirement, Procurer 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 In case any decrease or increase in project cost occurs due to Change in Law in accordance with Article 12 and the HPD wishes to claim a Change in Law under this Article, it shall give notice to the (- Name of the Licensee-) of such Change in Law as soon as reasonably practicable (but no later than 30 days from the date of occurrence of such Change in Law).

12.3.2 Any notice service pursuant to this Article 12.3.1 and 12.1.3, 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.

## 13 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 Procurer of its obligations under this Agreement, shall constitute an HPD Event of Default:

- (i) the failure to commence supply of power to Procurer up to the Contracted Capacity, by the end of the period specified in Article 4, or failure to continue supply of Contracted Capacity (to maintain supply upto Minimum CUF) to Procurer 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 Procurer in this regard; or
- (iv) except where due to any Procurer' 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 Procurer;
- (v) change in controlling 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.

### **13.2 Procurer' 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 Procurer:

- (i) Procurer 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) Procurer 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, Procurer is in material breach of any of its obligations pursuant to this Agreement, and such material breach is not

rectified by Procurer within sixty (60) days of receipt of notice in this regard from the HPD to Procurer; or if

- Procurer 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 Procurer; or
- Procurer 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 Procurer Event of Default, where such dissolution or liquidation of Procurer 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 Procurer and expressly assumes all obligations of Procurer 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 Procurer.

### **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, Procurer 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 (Procurer 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 Procurer Preliminary Default Notice, the Consultation Period of sixty (60) 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, Procurer 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 Procurer, 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 Procurer, damages, equivalent to 18 (Eighteen) months, or balance PPA period whichever is less, of charges for total electricity to be supplied considering stipulated minimum CUF in the same time period. Procurer 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 Procurer, 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, Procurer may terminate the PPA and if desired, may acquire the Project assets for an amount equivalent to 90% of the Debt Due or less as mutually agreed, failing which, the lenders may exercise their mortgage rights and liquidate the Project assets: Provided that any substitution under this Agreement can only be made with the prior consent of Procurer including the condition that the selectee meets the

eligibility requirements of Request for Selection (RfS) issued by Procurer and accepts the terms and conditions of this Agreement.

- 13.3.6 The lenders in concurrence with the Procurer, 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 Procurer 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 (nonrefundable) shall be deposited by the HPD to Procurer.
- 13.3.7 In the event the lenders are unable to substitute the defaulting HPD within the stipulated period, Procurer may terminate the PPA and if desired, the Procurer 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 Procurer Event of Default**

- 13.4.1 Upon the occurrence and continuation of any Procurer Event of Default specified in Article 13.2, the HPD shall have the right to deliver to Procurer, 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 sixty (60) 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 Procurer Event of Default giving rise to the Consultation

Period shall have ceased to exist or shall have been remedied, Procurer and the HPD shall, subject to the prior 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 Procurer within the stipulated period, then the HPD may terminate the PPA and at its discretion require Procurer to pay the HPD, damages, equivalent to 6 (Six) months, or balance PPA period whichever is less, of charges for total electricity to be supplied considering stipulated CUF in the same time period, 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.

### **13.5 Termination due to Force Majeure**

13.5.1 If the Force Majeure Event or its effects continue to be present beyond the period as specified in Article 4.5.3, termination of this Agreement shall be caused as per Article 11.7.

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

### **14.1 Indemnity**

14.1.1 The HPD shall indemnify, defend and hold Procurer and its officers, directors, agents, employees and affiliates (and their respective officers, directors, agents and employees) harmless against:

- a) any and all third party claims against Procurer 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 wilful misconduct, gross negligence or fraudulent behaviour 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 Procurer 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 Procurer 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 Buyer or 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 Procurer of any of its obligations. In so far as indemnity to HPD is concerned, Procurer shall be the indemnifying party .

### **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.

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 non-payment 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 Procurer 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 Procurer , the HPD or others), strict liability, contract, breach of statutory duty, operation of law or otherwise.

14.4.2 Procurer 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 Procurer, or any affiliate of Procurer, directors or shareholders for such claims excluded under this Article.

#### **14.5 Procurer' Liability**

14.5.1 Procurer shall discharge the tariff payment obligation in terms of the provision of 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.

## 15 ARTICLE 15: ASSIGNMENTS AND CHARGES

### 15.1 Assignments

15.1.1 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 Procurer 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 Actual Commencement of Supply date:

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

Provided further that such consent shall not be withheld if Procurer seeks to transfer to any transferee all of its rights and obligations under this Agreement.

Provided also 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 Procurer:

Provided also that such consent shall not be withheld by the HPD if Procurer 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 Procurer.

### 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. However, the HPD may create any encumbrance over all or part of the receivables, payment mechanism in favour of the Project Lenders or Lender's Representative on their behalf, as security for their debt under the Financing Agreements.

## **16 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 Mumbai.

### **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
  - (i) if the other Party does not furnish any counter claim or defence under Article 16
  - (ii) 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, 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**

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/MERC, shall be submitted to adjudication by the Appropriate Commission/MERC. Appeal against the decisions of the Appropriate Commission/MERC shall be made only as per the provisions of the Electricity Act, 2003, as amended from time to time.

### **16.3.2 Dispute Resolution through Arbitration**

- I. If the Dispute arises out of or in connection with any claims not covered in Article 16.3.1(i), such Dispute shall be resolved by arbitration under the provisions of the Electricity Act 2003 (as amended from time to time) as under:
- II. Proceedings as well as appointment of the arbitrator(s) shall be carried out by the Appropriate Commission under the Electricity Act 2003 as amended from time to time. As stipulated by the said Electricity Act 2003, the said arbitration will take place as per the provisions of the Arbitration and Conciliation Act, 1996 as amended from time to time.
- III. The place of arbitration shall be Mumbai. The language of the arbitration shall be English.
- IV. The Arbitration Tribunal's award shall be substantiated in writing. The Arbitration Tribunal shall also decide on the costs of the arbitration proceedings and the allocation thereof.
- V. The provisions of this Article shall survive the termination of this PPA for any reason whatsoever.

VI. The award shall be of majority decision. If there is no majority, the award will be given by the presiding Arbitrator.

#### **16.4 Parties to Perform Obligations**

Notwithstanding the existence of any Dispute and difference referred to the Appropriate Commission/MERC or the Arbitration Tribunal as provided in Article 16.3 and save as the Appropriate Commission/MERC or Arbitration Tribunal to which the dispute may be referred by Appropriate Commission/MERC, 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.

## **17 ARTICLE 17: MISCELLANEOUS PROVISIONS**

### **17.1 Amendment**

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

### **17.2 Third Party Beneficiaries**

Subject to provisions contained in this agreement relating to back to back implications of the PPA, 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.

If to Procurer, 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.

17.6.3 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.

17.6.4 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**

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 Procurer shall be indemnified and held harmless by the HPD against any claims that may be made against Procurer in relation to the matters set out in Article 17.9.1.
- 17.9.3 Procurer shall not be liable for any payment of, taxes, duties, levies, cess whatsoever for discharging any obligation of the HPD by Procurer 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 Procurer 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 Procurer.

## **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 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.

### **17.13 No Partnership**

None of the provisions of this Agreement shall constitute a partnership or agency or any such similar relationship between the Seller and Procurer.

### **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;

### **17.15 No Consequential or Indirect Losses**

The liability of the HPD and the (name of licensee) shall be limited to that explicitly provided in this Agreement. Provided that notwithstanding anything contained in this Agreement, under no event shall the Procurer or the Seller claim from one another any indirect or consequential losses or damages.

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

[-Name of the Licensee-]

For and on behalf of

[HPD]

Name, Designation and Address

Signature with seal

Name, Designation and Address

Signature with seal

Witness:

1.

Witness:

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 selection of the Project of the capacity of ..... MW, at .....[Insert name of the place] under .....[Insert name of the RfS], for supply of power there from on long term basis, in response to the RfS dated..... issued by Mindspace Business Parks Private Limited (MBPPL), Gigaplex Estate Private Limited (GEPL) and KRC Infrastructure and Projects Private Limited (KRCIPPL) in Combination (hereinafter referred to as KRC DISCOMs) and KRC DSICOMs considering such response to the RfS of .....[insert the name of the selected Hybrid Power Developer] (which expression shall unless repugnant to the context or meaning thereof include its executers, administrators, successors and assignees) and selecting the Hybrid Power 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 KRC DISCOMs at [Insert Name of the Place from the address of the KRC DISCOMs] forthwith on demand in writing from KRC DISCOMs or any Officer authorized by it in this behalf, any amount up to and not exceeding 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 Rs. \_\_\_\_\_ only. Our Guarantee shall remain in force until..... KRC DISCOMs shall be entitled to invoke this Guarantee till .....

The Guarantor Bank hereby agrees and acknowledges that KRC DISCOMs 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 KRC DISCOMs, made in any format, raised at the above mentioned address of the Guarantor Bank, in order to make the said payment to KRC DISCOMs.

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 KRC DISCOMs to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against KRC DISCOMs in respect of any payment made hereunder.

This BANK GUARANTEE shall be interpreted in accordance with the laws of India and the courts at Mumbai 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 KRC DISCOMs 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 KRC DISCOMs 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 IDFC First bank and a confirmation in this regard is received by KRC DISCOMs.

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

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to Rs. \_\_\_\_\_ (Rs. \_\_\_\_\_ 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 KRC DISCOMs serves upon us a written claim or demand.

Signature \_\_\_\_\_  
Name \_\_\_\_\_  
Power of Attorney No. \_\_\_\_\_

For  
\_\_\_\_\_ [Insert Name 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: COMMISSIONING PROCEDURE**