STANDARD

POWER PURCHASE AGREEMENT FOR

PROCUREMENT OF ….. MW WIND POWER

ON LONG TERM BASIS

Between

…….. [Insert Name of Wind Power Developer]

And

Solar Energy Corporation of India Limited

……. [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 Wind 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 Wind Power Developer] (hereinafter referred to as "**Wind Power Developer or WPD**", 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

Solar Energy Corporation of India Limited, a company incorporated under the Companies Act 1956, having its registered office at 6th Floor, Plate-B, NBCC Office Block Tower-2, East Kidwai Nagar, New Delhi-110023 (hereinafter referred to as "SECI", or "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 WPD and SECI are individually referred to as 'Party' and collectively referred to as 'Parties'.

WHEREAS:

A. The Government of India has announced the Policy for promotion of the Wind Power in the country and has provided a target to achieve an aggregate installed capacity of 60 GW by the year 2022.
B. The Ministry of Power, Government of India has issued the Guidelines for the Tariff Based Competitive Bidding Process for procurement of power generated from the Grid connected Wind Power Project vide Resolution dated 8th December 2017, including subsequent amendments and clarifications.
C. SECI has been designated as a Nodal Agency for developing and facilitating the establishment of the Grid connected Wind Power capacity in India in terms of the above Policy of the Government of India.

D. SECI had initiated a Tariff Based Competitive Bid Process for procurement of 1200 MW of the power generated from the ISTS connected Wind Power Project on the terms and conditions contained in the Request for Selection (herein after referred to as `**RFS'** issued by SECI vide RfS No…….. dated……. .

E. **…..[Insert Name of the WPD]** has been declared as a successful bidder in the Competitive Bidding Process for development, generation and supply of electricity from the ……MW Wind Power Project to be established by WPD anywhere in India and for supply of such electricity by SECI as an Intermediary Agency to the Buying Utility(ies) [as defined] under a Power Sale Agreement to be entered into between SECI and such Buying Utility (ies).

F. SECI has issued the Letter of Award No…….. dated**……**in favour of the WPD for development and establishment of the ……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.

G. SECI has agreed to purchase such Wind Power from the WPD as an Intermediary Procurer and sell it to Buying Utility on back-to-back basis as per the provisions of the RfS. Accordingly, SECI has agreed to sign/has signed a Power Sale Agreement with the Buying Utility to sell such power as per the provisions of the above said scheme.

H. In terms of the RfS and the Bidding Documents, the WPD has furnished the Performance Bank Guarantee/ Payment on Order Instrument in the sum of Rs……..in favour of SECI as per the format provided as a part of the Bidding Documents and a copy of the Bank Guarantee/ Payment on Order Instrument provided is in Schedule – 1/ 2 to this Agreement.

I. The WPD 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 Wind Power Project of……..MW at …….., [Insert Project location] for generation and sale of electricity by the WPD to SECI to enable SECI to make available such Wind Power to the Buying Utility(ies), as SECI may consider

appropriate, under a Power Sale Agreement and on a back-to-back basis to the Power Purchase Agreement to be entered into with the WPD.

J. SECI has signed the Power Sale Agreement with the Buying Utility(ies) of States in India.

K. 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 Wind Power Project at ……, [Insert name of state] and for generation and supply of electricity by the WPD to SECI.

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

ARTICLE 1: DEFINITIONS AND INTERPRETATION

1.1 *Definitions*

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

"Act" or "Electricity Act, 2003"	shall mean the Electricity Act, 2003 and include any modifications, amendments and substitution from time to time;
"Adjusted Equity"	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 (COD), the Adjusted Equity shall be a sum equal to the Equity funded in Indian Rupees and expended on the Project, revised to the extent of one half of the variation in WPI occurring between the first day of the month of Appointed Date and Reference Date; ii. An amount equal to the Adjusted Equity as on COD shall be deemed to be the base (the "Base Adjusted Equity"); iii. After COD, the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, reduced by 0.333% (zero point three three three percent) thereof at the commencement of each month following the COD [reduction of 1% (one percent) per quarter of an year] and the amount so arrived at shall be revised to the extent of variation in WPI occurring between the COD and the Reference Date; 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 Central 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 WPD and SECI, a day other than Sunday or a statutory holiday, on which the banks remain open for business in Delhi;
"Buying Entity"	Shall mean Distribution companies and shall include wherever admissible the Distribution licensees or buying entity in any State or any bulk consumer who agreed to purchase the Wind Power from SECI and execute the Power Sale Agreement from time to time with SECI, and requires Wind Power to fulfil its non-solar RPO under respective RPO regulations or to meet demand requirement;
"Capacity Utilization Factor" or "CUF"	shall have the same meaning as provided in CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2009 as amended from time to time; However, for avoidance of any doubt, it is clarified that the CUF shall be calculated on the Contracted Capacity; In any Contract Year, if 'X' MWh of energy has been metered out at the Delivery Point for 'Y' MW Project capacity, CUF= (X MWh/(Y MW*8766)) X100%; Declared CUF for this Project shall be ____ % (to be revised as applicable).
"CERC"	shall mean the Central Electricity Regulatory Commission of India, constituted under sub – section (1) of Section 76 of the Electricity Act, 2003, or its successors;
"CTU" or "Central 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.
"Commercial Operation Date (COD)"	shall mean as the actual date of commissioning of the project as declared by the Commissioning Committee constituted by SNA/SECI. In case of part commissioning COD will be declared only for that part of project capacity.
"Competent Court of Law"	shall mean any court or tribunal or any similar judicial or quasi-judicial body in India that has jurisdiction to adjudicate upon issues relating to this Agreement;

"Consents, Clearances and Permits"	shall mean all authorizations, licenses, approvals, registrations, permits, waivers, privileges, acknowledgements, agreements, or concessions required to be obtained from or provided by any concerned authority for the purpose of setting up of the generation facilities and/ or supply of power;
"Consultation Period"	shall mean the period of ninety (90) days or such other longer period as the Parties may agree, commencing from the date of issuance of a WPD Preliminary Default Notice or SECI Preliminary Default Notice as provided in Article 13 of this Agreement, for consultation between the Parties to mitigate the consequence of the relevant event having regard to all the circumstances;
"Contract Year"	shall mean the period beginning from the Effective Date and ending on the immediately succeeding March 31 and thereafter each period of 12 months beginning on April 1 and ending on March 31 provided that: (i) in the financial year in which the Scheduled Commissioning Date would occur, the Contract Year shall end on the date immediately before the Scheduled Commissioning Date and a new Contract Year shall commence once again from the Scheduled 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 (ii) provided further that the last Contract Year of this Agreement shall end on the last day of the Term of this Agreement
"Contracted Capacity"	shall mean …… [Insert capacity] MW, i.e. the AC capacity contracted with SECI for supply of power by the WPD to SECI at the Delivery Point from the Wind Power Project. It shall be equal to the Project Capacity as defined;
"Day"	shall mean a day, if not a Business Day, the immediately succeeding Business Day.
"Debt Due"	shall mean the aggregate of the following sums expressed in Indian Rupees outstanding on the Transfer Date: 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 2 (two) years prior to the Transfer Date; ii. All accrued interest, financing fees and charges payable under the Financing Agreements on, or in respect of, the debt referred to in sub-clause (i) above until the Transfer Date but excluding: (i) any interest, fees or charges that had fallen due one year prior to the Transfer Date, (ii) any penal interest or charges payable under the Financing Agreements to any Senior Lender, (iii) any pre-payment charges in relation to accelerated repayment of debt except where such charges have arisen due to Utility Default, and (iv) any Subordinated Debt

	which is included in the Financial Package and disbursed by lenders for financing the Total Project Cost. 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. Provided further that the Debt Due, on or after COD, shall in no case exceed 80% (eighty percent) of the Total Project Cost.
"Delivery Point"	"Delivery Point" shall mean the point at the voltage level of 220 kV or above of the ISTS Sub-station including the dedicated transmission line connecting the Wind Power Projects 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 WPD shall abide by the relevant and applicable regulations, Grid Code notified by the CERC or and Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended and revised from time to time, or orders passed thereunder by the appropriate commission or CEA. Pursuant to Article 4.2.6, all charges and losses related to Transmission of power from project up to Delivery Point (including but not limited to open access, transmission, wheeling, Unscheduled Interchange, Scheduling, Reactive power, RLDC/SLDC charges etc.) as notified by the competent authority / regulator shall be borne by the WPD 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 Buying Utilities. In case it is paid by SECI on behalf of Buying Utilities / WPD, the same shall be recovered from the Buying Utilities / WPD (as applicable);
"Discoms"	shall mean the Buying Entity or the distribution utilities who have signed/will sign the PSA (s) with SECI for purchase of Power;
"Dispute"	shall mean any dispute or difference of any kind between SECI and the WPD, 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;
"Due Date"	Due Date shall mean the forty-fifth (45th) day after a Monthly Bill (including all the relevant documents) or a Supplementary Bill is received in hard copy and duly acknowledged by the SECI 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 SECI.

“Effective Date”	shall have the meaning ascribed thereto in Article 2.1 of this Agreement;
“Electricity Laws”	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;
"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) will be considered; SECI reserves the right to choose from any of the above, i.e. JMR/SEA/REA, based on the acceptance of the same by the Buying Utility;
“Event of Default”	shall mean the events as defined in Article 13 of this Agreement;
“Expiry Date”	shall mean the date as on the expiry of 25 years from the SCD or from the date of full commissioning of the Project, whichever is earlier. In case utility opt to take power from SCD then 25 years start from SCD;
“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 WPD 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 SECI;
"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 Power Projects issued by the Ministry of Power on 8th December 2017, including subsequent amendments and clarifications, issued until the last date of bid submission of the 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, SECI and WPD 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 WPD in accordance with Article 8 of this Agreement;
"Interconnection Facilities"	shall mean the facilities on WPD'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;
Intermediary agency or Intermediary nodal agency or Intermediary Procurer"	shall mean Solar Energy Corporation of India Limited;
"Invoice" or "Bill"	shall mean either a Monthly Bill / Supplementary Bill or a Monthly Invoice/ Supplementary Invoice raised by any of the Parties;
"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 WPD, 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;
"MNRE"	shall mean the Ministry of New and Renewable Energy, Government of India;

"Month"	shall mean a period of thirty (30) days from (and excluding) the date of the event, where applicable, else a calendar month;
"Party" and "Parties"	shall have the meaning ascribed thereto in the recital to this Agreement;
"Payment on Order Instrument"	shall mean the irrevocable unconditional letter of undertaking issued by either of the three institutions, viz., (i) Indian Renewable Development agency Limited (IREDA) or (ii) Power Finance Corporation Limited or (iii) REC Limited., as an alternative to submission of Performance Bank Guarantee by the WPD, issued in the form attached hereto as Schedule 2;
"Payment Security Mechanism"	shall have the meaning ascribed thereto in Article 10.4 of this Agreement;
"Performance Bank Guarantee"	shall mean the irrevocable unconditional bank guarantee, submitted by the WPD to SECI in the form attached hereto as Schedule1;
"Pooling Substation/ Pooling Point"	means a point where more than one Wind Power projects 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 WPD(s) to get connected to the ISTS substation. The voltage level for such common line shall be 220 kV and above. Further, the metering of the pooled power shall be done at the injection point, i.e. the ISTS substation. However, the voltage level of transmission system of individual projects up to the pooling substation may be at 33 kV and above. Sub-meters shall be installed at the pooling substation for metering and forecasting and scheduling of individual projects. The losses in the common transmission system up to the injection point shall be apportioned to the individual Projects for the purpose of billing. In such case, it shall be responsibility of the WPD to obtain and furnish the meter reading jointly by the WPD and any competent authority (State Government or Central Government) (if applicable).
"Power Project" or "Project"	shall mean the Wind Power generation facility of Contracted Capacity of ……..[Insert capacity] MW, located at ……. [Insert name of the place] in …. [Insert name of the District and State] having a separate control system, metering and a single point of injection into the grid at Delivery/Interconnection/Metering point at ISTS substation or in case of sharing of transmission lines, by separate injection at pooling point. 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;

"Power Sale Agreement" or "PSA"	shall mean the power sale agreement entered between the Buying Entity and SECI (Buyer- Buying Entity(ies) PSA) for selling the Wind Power as per the provisions of Guidelines;
"Preliminary Default Notice"	shall have the meaning ascribed thereto in Article 13 of this Agreement;
"Project Capacity"	shall mean the maximum AC capacity of the Project at the point of injection on which the Power Purchase Agreement has been signed.
"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; b) 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 Commissioning Date" or "SCD" of the Project	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 Wind Power Project is located;
"SECI"	shall mean Solar Energy Corporation of India Limited;

"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;
"Tariff"	Shall have the same meaning as provided for in Article 9 of this Agreement;
"Tariff Payment"	shall mean the payments to be made under Monthly Bills as referred to in Article 10 and the relevant Supplementary Bills;
"Termination Notice"	shall mean the notice given by either Parties for termination of this Agreement in accordance with Article 13 of this Agreement;
"Term of Agreement"	shall have the meaning ascribed thereto in Article 2 of this Agreement;
"Unit/ Part Commissioning"	Subject to the compliance of conditions / procedure as detailed under Schedule-3 of this Agreement, Unit / Part Commissioning shall mean the WTGs Capacity (AC MW) to be commissioned as per provisions of the this Agreement and RfS document. Part Commissioning shall not be applicable for Projects having capacity less than 50 MW;
"Unit Commercial Operation Date (UCOD)"	shall mean the date of issuance of commissioning certificate for the respective part(s) of the Power Project subsequent to the demonstration of the compliance of commissioning as per this Agreement and witnessed by the Committee duly constituted and also start of injection and scheduling power from the Power Project to the Delivery Point and availability / installation of all necessary arrangements / equipment including RTU for scheduling of power generated from the Project and transmission of data to the concerned authority as per applicable regulation;
"Week"	shall mean a calendar week commencing from 00:00 hours of Monday, and ending at 24:00 hours of the following Sunday;
"Wind Power"	shall mean power generated from the Wind Power Project;
"Wind Power Project"	shall mean the project that uses wind for conversion into electricity and that is being set up by the WPD to provide Wind Power to SECI 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

ARTICLE 2: TERM OF AGREEMENT

2.1 ***Effective Date***

2.1.1 This Agreement shall come into effect from (Enter the date) and such date shall be referred to as the Effective Date.

2.1.2 The Parties agree that decisions pertaining to adoption of the Tariff and approval of the same, for procurement of contracted capacity, shall be binding on all Parties concerned, as contained in the Electricity Act, 2003 and any amendments thereof.

2.1.3 Notwithstanding the Effective Date, the condition precedent for the enforcement of the obligations of either party against the other under this Agreement shall be that, within 120 days after the Effective Date of the PPA, SECI shall obtain adoption of tariff from CERC/SERC as applicable, on the terms and conditions contained in this Agreement read with the terms and conditions contained in the Power Sale Agreement entered into between SECI and the Buying Entity(ies). The Parties agree that in the event, the order of adoption of tariff as mentioned above is not issued by the CERC/SERC within the time specified above, the provisions of Article 2.1.4 shall apply.

2.1.4 Pursuant to Article 4.2.6, if parties have not mutually extended the time period as stipulated under Article 2.1.3 and the order from the SERC and/or CERC (as applicable) is issued within the timeline as per Article 2.1.3, no extension for Financial Closure or Scheduled Commissioning Date shall be given. However, if the requisite SERC and/or CERC (as applicable) order is issued after the timeline as per Article 2.1.3, this shall entail a corresponding extension in Scheduled Financial Closure and the Scheduled Commissioning Date for equal number of days for which the SERC and / or CERC order has been delayed beyond such period as specified in Article 2.1.3. Provided further that in case, the order of adoption of Tariff and/or procurement approval from CERC and/or SERC as required under Article 2.1.3 above is not received or delayed, either Party shall not be liable for payment of any compensation to other Party for any loss or damage on account of such delay in availability or non-availability of the approval of CERC/SERC, as the case may be.

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.

2.2.2 The WPD 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 SECI, SECI 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 SECI or WPD terminates the Agreement, pursuant to Article 13 of this Agreement.

2.4 ***Survival***

2.4.1 The expiry or termination of this Agreement shall not affect any accrued rights, obligations and liabilities of the Parties under this Agreement, including the right to receive penalty as per the terms of this Agreement, nor shall it affect the survival of any continuing obligations for which this Agreement provides, either expressly or by necessary implication, which are to survive after the Expiry Date or termination including those under Article 11 (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.

ARTICLE 3: CONDITIONS SUBSEQUENT

3.1 Satisfaction of conditions subsequent by the WPD

The WPD agrees and undertakes to duly perform and complete all of the following activities including Financial Closure at the WPD's own cost and risk within 7 Months from the Effective Date, unless such completion is affected by any Force Majeure event, or for the activities specifically waived in writing by SECI:

a) The WPD shall make Project financing arrangements and shall provide necessary certificates to SECI in this regard;

b) The WPD shall submit the details of all planned/proposed wind turbine generators and produce the documentary evidence of the same.

The WPD shall submit to SECI the relevant documents as stated above, complying with the Conditions Subsequent, within seven (07) 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, SECI shall encash the Performance Bank Guarantee/Payment on Order Instrument submitted by the WPD, terminate this Agreement and remove the Project from the list of the selected Projects by giving a notice to the WPD in writing of at least seven (7) days, unless the delay (subject to the conditions that WPD has made / is making all possible efforts) is on account of delay in allotment of Land by the Government not owing to any action or inaction on the part of the WPD 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 7th day of the above notice.

3.2.1 (i) An extension, without any impact on the Scheduled Commissioning Date, can however be considered, on the sole request of WPD, on payment of Rs. 1000/- per day per MW to SECI. Such extension charges are required to be paid to SECI in advance, for the period of extension required. In case of any delay in depositing this extension charge, WPD 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 SECI is more than 7 days, the termination of the Agreement shall take effect upon the expiry of such 7th day. This amount will go into the Payment Security Mechanism. In case of the WPD meeting the requirements of conditions subsequent and financial closure before the last date of such proposed delay period, the remaining amount deposited by the WPD shall be returned by SECI

without interest. This extension will not have any impact on the Scheduled Commissioning Date. Any extension charges paid so by the WPD, shall be returned to the WPD without any interest on achievement of successful commissioning within the Scheduled Commissioning Date, on pro-rata basis, based on the project capacity commissioned as on Scheduled Commissioned Date. However, in case the WPD fails to commission the Contract Capacity by Scheduled Commissioning Date, the extension charges deposited by the WPD shall not be refunded by SECI. For the avoidance of doubt, it is clarified that this Article shall survive the termination of this Agreement.

3.2.2 In case of inability of the WPD 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.

3.2.3 Provided that due to the provisions of this Article 3.2.2, any increase in the time period for completion of conditions subsequent and financial closure mentioned under Article 3.1, shall also lead to an equal extension in the Scheduled Commissioning Date.

3.3 Performance Bank Guarantee/ Payment on Order Instrument

3.3.1 The Performance Bank Guarantee (PBG)/ Payment on Order Instrument (POI) having validity from the date of submission of PBG/POI until 12 months after the SCD, submitted for a value of Rs. 20.79 Lakh/MW (Rs. 20,79,000/MW) 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 1/2.

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

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

3.4 Return of Performance Bank Guarantee/ Payment on Order Instrument

3.4.1 Subject to Article 3.3, SECI shall return / release the Performance Bank Guarantee/ Payment on Order Instrument 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/ Payment on Order Instrument shall be without prejudice to other rights of SECI under this Agreement.

ARTICLE 4: CONSTRUCTION & DEVELOPMENT OF THE PROJECT

4.1 *WPD's Obligations*

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

a) The WPD shall be solely responsible and make arrangements for Land & associated infrastructure for development of the Project and for Connectivity with the CTU System for confirming the evacuation of power by the Scheduled Commissioning date and all clearances related thereto;

On or before Scheduled Commissioning Date or extended Scheduled Commissioning Date, the WPD 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 WPD shall submit documents/ Lease Agreement to establish possession/ right to use 100% of the required land in the name of the WPD or its Affiliate. In case the land is in the name of the Affiliate, the land should be transferred in the name of the WPD prior to the SCD. Whenever leasing of private land is involved, the lease should allow creation of a charge/ mortgage/ security interest in favour of the Project lenders/ investors/ third party investors in case of default of the SPD/WPD in relation to the PPA or loan agreement. The WPD shall submit a sworn affidavit from the authorized signatory of the WPD listing the details of the land and certifying that total land required for the Project is under clear possession of the WPD;

b) Obtaining all Consents, Clearances and Permits as required and maintaining all Consents, Clearances and Permits in full force and effect during the Term of this Agreement. SECI shall have no obligation to recommend to any department/agency or the Govt. for the grant/permission for the Wind Power project. The Wind 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 SECI in regard to grant of such consents and permits or any other approval to be taken by the WPD shall only be a voluntary endeavour with no intention of being bound by any legal or binding obligation.

c) designing, constructing, erecting, commissioning, completing and testing the Power Project in accordance with the applicable Law, the Grid Code, the terms and conditions of this Agreement and Prudent Utility Practices.

d) the commencement of supply of power up to the Contracted Capacity to SECI no later than the Scheduled Commissioning Date and continuance of the supply of power throughout the term of the Agreement;

e) connecting the Power Project switchyard with the Interconnection Facilities at the Delivery Point; The WPD shall make adequate arrangements to connect the Power Project switchyard with the Interconnection Facilities at Interconnection / Metering / Delivery Point.

f) owning the Power Project throughout the Term of Agreement free and clear of encumbrances, except those expressly permitted under Article 15;

g) 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 3.20 of the RfS;

h) fulfilling all obligations undertaken by the WPD under this Agreement.

i) Obtaining Connectivity and executing connectivity agreement as per provision of GNA regulation issued by CERC, for evacuation of the Contracted Capacity and maintaining it throughout the term of the Agreement. It is further clarified that the Entities (WPD and Buying Entity) as indicated in the Detailed Procedure issued subsequently under the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022, will be responsible for their respective obligation as notified in the Detailed Procedure irrespective of the provisions of the RfS, PPA and PSA.

j) The WPD shall be responsible to for directly coordinating and dealing with the corresponding Buying Utility(ies), Load Dispatch Centres, Regional Power Committees, and other authorities in all respects in regard to declaration of availability, scheduling and dispatch of Wind Power and due compliance with deviation and settlement mechanism and the applicable Grid code/State/Central Regulations, acknowledging that the WPD and the corresponding Buying Utility(ies) are the Grid connected entities and SECI as an Intermediary Procurer/ trading licensee is not a Grid connected entity in respect of the Wind Power contracted under this Agreement.

k) The WPD shall install the type certified wind turbine models listed in Revised List of Models and Manufactures (RLMM) issued by MNRE as updated until the Scheduled Commissioning Date in the Project..

l) 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,

m) As part of scheduling of power from the Project, the WPD 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 Buying Entity/Discom, as per the Regulations in force, under intimation to SECI. SECI may facilitate in identification of any discrepancy and assist the WPD for its early rectification without any liability on SECI. The WPD shall be solely responsible for discrepancy identification and its rectification to avoid any rejection/less payment of invoices.

n) making a payment security deposit of [Insert amount @ Rs 5 Lakhs / MW] to the designated account as intimated by the SECI towards Payment Security Fund as per clause 3.12 of the RfS, which states that, "*Payment Security Deposit: Prior to declaration of commissioning of first part capacity of the Project, the WPD shall furnish a Payment Security Deposit (PSD) @Rs. 5 lakh/MW/Project, to SECI through DD/NEFT/RTGS. This fund shall form part of the Payment Security Fund maintained by SECI for the Projects. Modalities of operationalization of the Payment Security Deposit will be notified by SECI at appropriate stage, through necessary guidelines/orders. The above amount shall be credited to SECI pro-rata to the part capacity being commissioned at that stage.*"

o) Submission of monthly progress reports with respect to the L-2 Schedule to SECI prior to signing of this Agreement.

p) After signing of PPA, the SPD shall apply for drawl NOC(s) from the respective STU(s) of the State as per the power mapping provided by SECI.

4.2 *Information regarding Interconnection Facilities*

4.2.1 The WPD 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 WPD'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 WPD 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 WPD to the extent the delay is attributable to the WPD.

4.2.3 The responsibility of getting connectivity with the transmission system up to the Interconnection Point, will lie with the WPD. The transmission of power up to the point of interconnection where the metering is done for energy accounting shall be the responsibility of the WPD 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 WPD. 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 WPD.

4.2.4 In case of Pooling substation, losses in the transmission line shall be apportioned among the WPDs who share such a Pooling arrangement and duly signed by all WPDs, based on their monthly generation.

4.2.5 The arrangement of connectivity shall be made by the WPD 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 WPD. In case of non-availability of Grid and Transmission System during Term of this Agreement, for reasons not attributable to the WPD, provisions of Article 4.10 shall be applicable.

4.2.6 Government of India, from time to time, issues order for waiver of inter-state transmission system (ISTS) charges and losses on transmission of wind 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, SECI shall bear no liability with respect to transmission charges and losses levied, if any. However, in case the commissioning of the Project gets delayed beyond the applicable date of ISTS waiver/extended SCD as above, due to reasons attributable to the WPD, the liability of transmission charges and losses would be to the account of the WPD.

Delay in Project commissioning beyond the deadline as stipulated by the Government of India, and treatment of ISTS charges and losses thereof, shall be dealt in line with the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) (First Amendment) Regulations, 2023

dated 07.02.2023, and subsequent amendments and clarifications thereto, as applicable.

4.3 Purchase and sale of Contracted Capacity

4.3.1 Subject to the terms and conditions of this Agreement, the WPD undertakes to sell to SECI and SECI 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 a pro-rata basis, to all the Buying Entities which have signed their respective Power Sale Agreements with SECI under the referred RfS.

.

4.4 *Right to Contracted Capacity & Energy*

4.4.1 The WPD will be allowed to revise the CUF of the Project once within first three years after COD of the Project. The declared annual CUF shall be in no case less than 22 percent, in terms of the Guidelines. Subsequent to commissioning of the Project, SECI, in any Contract Year, except for the Contract Year ending on 31st March immediately after COD of the Project, shall not be obliged to purchase any additional energy from the WPD beyond …….. Million kWh (MU) [Insert value of energy corresponding to CUF of 120% of the declared CUF for the Project or the modified CUF]. If for any Contract Year, except for the Contract Year ending on 31st March immediately after the COD of the Project, it is found that the WPD has not been able to supply minimum energy at CUF of ……%, i.e……...Million kWh (MU) [Insert values corresponding to a CUF of 80% of the declared CUF for the project or the modified CUF] on account of reasons solely attributable to the WPD, the WPD shall be liable to pay the compensation to SECI to enable SECI to remit such compensation to the Buying Entity (ies).

The lower limit 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 WPD as determined under provisions of Article 4.10.1. The amount of such compensation shall ensure the Buying Entity to offset for all potential costs associated with low generation and supply of power from the Project(s) under the PSA. The amount of such compensation will be calculated @ 50% (fifty per cent) of the PPA tariff for the shortfall in energy terms, which in turn, shall be remitted to the Buying Entity. The compensation as per above shall be applied on the amount of shortfall in generation from the Project during any Contract

Year. This compensation shall not be applicable in events of Force Majeure identified under this Agreement, affecting supply of Wind Power by WPD.

4.4.2 Any excess generation over and above as per Article 4.4.1, may be purchased by SECI at the tariff as per Article 9, provided the Buying Entity consents to purchase such power. While the WPD would be free to install the wind turbine 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, it will not be allowed to sell any excess power to any other entity other than SECI (unless refused by SECI). The WPD shall be required to intimate SECI about the proposed excess quantum of energy likely to be generated from the Project within any Contract Year, at least 60 days prior to the proposed date of commencement of excess generation. SECI shall be required to intimate its approval/refusal to the WPD, for buying such excess generation not later than 30 days of receiving the above offer from the WPD. In the event the offer of the WPD is not accepted by SECI within the said period of 30 days, such right shall cease to exist and the WPD shall, at its sole discretion, may sell such excess power to any third party.

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

Any energy produced and flowing into the grid before Scheduled Commissioning Date shall not be at the cost of SECI. SECI may agree to buy such power at a tariff as agreed to between SECI and the Buying Entity (including SECI's trading margin), provided the Buying Utility consents for purchase of such power.

4.5 ***Extensions of Time***

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

a) any SECI Event of Default; or

b) Force Majeure Events affecting SECI/ Buying Entity(ies) , or

c) Force Majeure Events affecting the WPD,

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

4.5.2 Subsequent to grant of connectivity, in case there is a delay in grant/operationalization of GNA by the CTU and/or there is a delay in readiness of the ISTS substation at the Delivery Point, including readiness of the power evacuation and transmission infrastructure of the ISTS network until SCD of the Project, and it is established that:

(i) The WPD has complied with the complete application formalities as per RfS,

(ii) The WPD has adhered to the applicable Procedure in this regard as notified by the CERC/CTU, and

(iii) The delay in grant of connectivity/GNA by the CTU and/or delay in readiness of the 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 WPD;

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

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

On account of delay in Grid Access operationalization, in case of any extension in SCD beyond 30.06.2025, necessary approval will be granted by MNRE, in line with the OM issued by Ministry of Power vide No. 23/12/2016-R&R dated 30.11.2021, and subsequent amendments/clarifications thereto, read in conjunction with CERC's orders and regulations notified in this regard. The provisions of PPA and PSA in regard to liability of the Buying Entity to pay the ISTS charges and losses shall stand modified by such exemption/waiver provided as per the above Order/Office Memoranda and regulations issued by CERC, as applicable.

Further, in case of delay in Project commissioning on account of reasons solely attributable to the WPD, resulting in any liquidated damages/penalty levied on the Buying Entity including Transmission charges under the GNA Regulations and/or applicable regulation as notified by CERC, such damages/penalty shall be passed on to the WPD.

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 nine (9) months, any of the Parties may choose to terminate the Agreement as per the provisions of Article 13.5. In case neither party terminates the Agreement under this clause, the Agreement shall stand terminated on the expiry of twelve (12) months of the continuation of the Force Majeure event unless the parties mutually agree to extend the Agreement for the further period.

4.5.4 If the Parties have not agreed, within thirty (30) days after the affected Party's performance has ceased to be affected by the relevant circumstance, on the time period by which the Scheduled Commissioning Date or the Expiry Date should be deferred, any Party may raise the Dispute to be resolved in accordance with Article 16.

4.5.5 As a result of such extension on account of Article 4.5.1 or Article 4.5.2, the newly determined Scheduled Commissioning Date and newly determined Expiry Date shall be deemed to be the Scheduled Commissioning Date and the Expiry Date for the purposes of this Agreement.

4.5.6 Not used.

4.5.7 Delay in commissioning of the project beyond the scheduled commissioning date for reasons other than those specified in Article 4.5.1 & Article 4.5.2 shall be an event of default on part of the WPD and shall be subject to the consequences specified in the Article 4.6.

4.6 Liquidated Damages not amounting to penalty for delay in Commissioning

4.6.1 The Project shall be fully commissioned within the Scheduled Commissioning Date as defined in this Agreement. If the WPD is unable to commission the Project by the Scheduled Commissioning Date for the reasons other than those specified in Article 4.5.1 and 4.5.2, the WPD shall pay to SECI, damages for the delay in such commissioning and making the Contracted Capacity available for dispatch by the Scheduled Commissioning Date as per the following:

(a) Delay beyond the Scheduled Commissioning Date upto (& including) the date as on 270 days after the Scheduled Commissioning Date, as part of the liquidated damages, the total PBG/POI amount for the Project shall be encashed on per-day basis and proportionate to the balance capacity not commissioned. For example, in case of a Project of 240 MW capacity, if commissioning of 100 MW capacity is delayed by 18 days beyond the SCD, then the liquidated damages shall be: PBG/POI amount X (100/240) X (18/270).

(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/ Payment on Order Instrument shall be limited to 270 days after the SCD of the Project. In case, the Commissioning of the Project is delayed beyond 270 days after the SCD, it shall be considered as an WPD Event of Default and provisions of Article 13 shall apply and the Contracted Capacity shall stand reduced / amended to the Project Capacity Commissioned within 270 days after the SCD and the PPA for the balance Capacity will stand terminated and shall be reduced from the project capacity.

4.6.3 The WPD further acknowledges that the amount of the liquidated damages fixed is genuine and reasonable pre-estimate of the damages that may be suffered by SECI/ Buying entity(s) as specified under this Agreement or in the PSA.

4.7 Acceptance/Performance Test

4.7.1 Prior to synchronization of the Power Project, the WPD 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 Wind Power projects.

4.8 Third Party Verification

4.8.1 The WPD 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 SECI and a third Party nominated by any Indian Governmental Instrumentality for inspection and verification of the works being carried out by the WPD at the site of the Power Project.

The WPD shall provide full support to SECI and/or the third party in this regard.

4.8.2 The third party may verify the construction works/operation of the Power Project being carried out by the WPD 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 WPD 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 SECI being in compliance of its obligations & undertakings under this Agreement, the WPD 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 Generation Compensation in offtake constraints due to Grid Unavailability: During the operation of the plant, there can be some periods where the Project can generate power but due to temporary transmission unavailability, the power is not evacuated, for reasons not attributable to the Wind Power Developer. In such cases, subject to the submission of documentary evidences from the competent authority, the generation compensation shall be restricted to the following and there shall be no other claim, directly or indirectly against SECI:

Duration of Grid unavailability	**Provision for Generation Compensation**
Grid unavailability in a contract year as beyond 50 hours in a Contract Year as defined in the PPA:	***Generation Loss = [(Average Generation per hour during the Contract Year)*** × ***(number of hours of grid unavailability during the Contract Year)]*** Where, Average Generation per hour during the Contract Year (kWh) = Total generation in the Contract Year (kWh) ÷ 8766 hours less total hours of grid unavailability in a Contract Year.

The excess generation by the WPD equal to this generation loss shall be procured by the Buying Entity at the PSA tariff so as to offset this loss in the succeeding 3

(three) Contract Years, against the energy supplied over and above maximum energy supply limit i.e. the energy corresponding to 120% of declared CUF.

Alternatively, the Buying Entity may choose to provide Generation Compensation, in terms of PPA tariff, for the Generation loss as defined above, and for Grid unavailability beyond 50 hours in a Contract Year as defined in the PPA.

4.10.2 Offtake constraints due to Backdown: Governments encourages status of 'must-run' to wind and solar power projects, which is reflected both in Indian Electricity Grid Code (IEGC) as well as State Grid Codes /Regulations. Therefore, the wind projects, duly commissioned, should not be directed to back down by a DISCOM, Load Dispatch Centre (LDC) except for reasons of grid security or safety of any equipment or personnel, where justification should be duly recorded and be notified to the WPD in writing, which can be verified by any third party agency. No back-down, curtailment shall be ordered without giving formal/written instructions for the same. The details of back-down / curtailment, including justifications for such curtailment, specifying data to back such curtailment, should be made public, including by putting in their website, by the concerned Load Dispatch Centre. In the event of any Backing down, except in the cases where the back down is due to grid security or safety of any equipment or personnel or such other conditions, the WPD shall be eligible for a Generation Compensation, from the Procurer, in the manner detailed below:

Duration of Backdown	**Provision for Generation Compensation**
Hours of Backdown during a monthly billing cycle.	***Generation Compensation = 50% of [(Average Generation during the month corresponding to the capacity backed down)] X PPA tariff*** Where, Average Generation per hour during the month corresponding to the capacity backed down (kWh) = (CUF during the month) x ∑ (Backed down capacity in MW x corresponding time of backdown in hours x 1000)

The Generation Compensation as calculated above will be limited to the extent of shortfall in annual generation corresponding to the maximum CUF permitted as per Article 4.4.1 and the same will be settled on annual basis.

The WPD shall not be eligible for any compensation in case the Backdown is on account of events like consideration of grid security or safety of any equipment or personnel or other such conditions. The Generation Compensation shall be paid as part of the energy bill for the successive month after receipt of Energy Accounts (REA)/SEA/JMR. No trading margin shall be applicable on this Generation Compensation under Article 4.10.2.

It is hereby clarified that for the purpose of Article 4.10, "generation" shall mean scheduled/actual energy as applicable based on Energy Accounts.

Notwithstanding anything mentioned above, the provisions of Article 4.10 shall be applicable subject to the acceptance of the same by the respective Buying Utility.

ARTICLE 5: SYNCHRONISATION, COMMISSIONING AND COMMERCIAL OPERATION

5.1 Synchronization, Commissioning and Commercial Operation

5.1.1 The WPD shall give the concerned RLDC/SLDC and SECI and also Buying Entity at least sixty (60) days' advanced preliminary written notice and at least thirty (30) days' advanced final written notice, of the date on which it intends to synchronize the Power Project to the Grid System.

5.1.2 Subject to Article 5.1.1, the Power Project may be synchronized by the WPD to the Grid System when it meets all the connection conditions prescribed in applicable Grid Code then in effect and otherwise meets all other Indian legal requirements for synchronization to the Grid System.

5.1.3 The synchronization equipment and all necessary arrangements / equipment including RTU for scheduling of power generated from the Project and transmission of data to the concerned authority as per applicable regulation shall be installed by the WPD at its generation facility of the Power Project at its own cost. The WPD 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 WPD 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 SECI. In addition, the WPD will inject in-firm power to grid time to time to carry out operational/ functional test prior to commercial operation. For avoidance of doubt, it is clarified that Synchronization / Connectivity of the Project with the grid shall not to be considered as Commissioning of the Project.

5.1.5 The WPD shall commission the Project as detailed in "Schedule 3: Commissioning Procedure" within twenty-four (24) Months of the Effective Date of PPA or the Effective Date of PSA, whichever is later. Declaration of COD / UCOD shall only be done subject to the demonstration of the compliances as per Schedule-3 and subsequent upon the successful visit by the Commissioning Committee. It is clarified that in case the Detailed Procedure under the GNA regulations are not enforced until the Project commissioning, the WPD and the Buying Entity(ies) shall abide by the current Procedure under applicable CERC regulations. In such a scenario, the

responsibility of obtaining LTA will be that of the WPD. In the alternate scenario, no such requirement will be applicable on the WPD.

5.1.6 There can be part Commissioning of the Project. Part commissioning of the project shall mean that all equipment corresponding to the part capacity have been installed and commissioned and corresponding energy has flown into the grid.

5.1.7 The Parties agree that for the purpose of commencement of the supply of electricity by WPD to SECI, liquidated damages for delay etc., the Scheduled Commissioning Date or extended Scheduled Commissioning Date as defined in this Agreement shall be the relevant date.

5.1.8 **Early Commissioning**

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

Early commissioning of the Project will be allowed solely at the risk and cost of the WPD, and SECI shall purchase the energy from such early commissioned Project at the PPA tariff, only in case the Discom agrees to purchase power from the Project at an earlier date, and at the PPA tariff plus trading margin.

In cases of early (part or full) commissioning, the WPD shall be required to intimate SECI its proposed date of early commissioning not later than 60 days prior to the proposed commissioning date. SECI shall respond to the WPD not later than 30 days from receipt of the above intimation, regarding its acceptance or refusal to purchase such power from the proposed early commissioning date.

In case SECI does not agree to purchase such energy, early part/full commissioning of the Project shall still be allowed and the WPD will be free to sell such energy to a third party; subject to operationalization of GNA, until SCD or the date of commencement of procurement of power from the Project as notified by SECI, whichever is earlier. COD of the Project under the PPA will be declared from the date of commencement of procurement of energy from the Project by SECI.

5.1.9 **Installation of additional capacity of wind turbines**

The WPD is free to install additional wind turbines in the Project, subject to the following conditions:

a. Details of the overall Project configuration, including details of additional capacity that WPD 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 4.4.2 of the PPA.
c. The WPD 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. This undertaking will be submitted to SECI/CTU, to be intimated by SECI at the time of Project commissioning.
d. With Connectivity to the ISTS being a technical requirement, the WPD should inform the entire capacity that is proposed to be installed along with all the data/models (individual as well as aggregated) to CTU/POSOCO.
e. All the WTGs shall comply with all the technical requirements specified in CEA "Technical Standards for Connectivity to the Grid, 2007" and subsequent amendments.
f. At all-times, the WPD shall have to follow the applicable Indian Electricity Gird Code/Rules/Regulation/Procedures issued by MoP/CEA/CERC/CTU/ POSCOS for all WTGs, including additional WTGs, installed under the Project.
g. 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 WTG level data shall be provided by WPD to CTU/POSOCO, for all the turbines installed in the Project.
h. Developer would be permitted Connectivity as per the applications to CTU. In case of installation of any excess capacity beyond the quantum for which Connectivity has been sought, the WPD would be required to capture all details of the same in their CON-4 application and CON-5 would be issued accordingly. It shall be ensured that such excess capacity added, fully complies with CEA (Technical Standards for connectivity to the Grid) Regulations 2007 (as amended) and all mandated documents/test reports shall be furnished in support of above.
i. This additional installation of WTGs is a prerogative of the WPD 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.

j. In case, 100% Contracted Project capacity is being planned for commissioning in one batch itself, then additional installed capacity must also be commissioned with that batch. In case, 100% contracted project capacity is being planned for commission in parts/batches, then all the additional capacity shall be processed for commissioning along with the last part of commissioning of contracted capacity. No separate commissioning activity will be undertaken by SECI for declaring commissioning of additional capacity over and above the contracted capacity.

ARTICLE 6: DISPATCH AND SCHEDULING

6.1 *Dispatch and Scheduling*

6.1.1 The WPD shall be required to schedule its power as per the applicable regulations / requirements / guidelines of CERC / SERC /SLDC / RLDC or any other competent agency and same being recognized by the SLDC or any other competent authority / agency as per applicable regulation/ law / direction and maintain compliance to the applicable Codes/ Grid Code requirements and directions, if any, as specified by concerned SLDC/RLDC from time to time. Any deviation from the Schedule will attract the provisions of applicable regulation / guidelines / directions and any financial implication on account of this shall be on the account of the WPD.

6.1.2 The WPD shall be responsible for directly coordinating and dealing with the Buying Entity, State Load Dispatch Centre's, Regional Power Committees, and other authorities in all respects in regard to declaration of availability, scheduling and dispatch of Wind Power and due compliance with deviation and settlement mechanism and the applicable Grid code Regulations, acknowledging that the WPD and Buying Entity are the Grid connected entities and SECI as an intermediary procurer/ trading licensee is not a Grid connected entity in respect of the Wind Power contracted under this Agreement.

6.1.3 The WPD shall be responsible for any deviation from scheduling and for any resultant liabilities on account of charges for deviation as per applicable regulations. UI charges on this account shall be directly paid by the WPD.

6.1.4 Auxiliary power consumption will be treated as per the concerned Central/State regulations.

6.1.5 Energy procured from the Project under the PPA shall be allocated on a pro-rata basis, to all the Buying Entities which have signed their respective Power Sale Agreements with SECI under the referred RfS. (*to be deleted in case of a single Buying Entity for the entire awarded capacity under the RfS)*

ARTICLE 7: METERING

7.1 *Meters*

7.1.1 For installation of Meters, Meter testing, Meter calibration and Meter reading and all matters incidental thereto, the WPD and SECI shall follow and be bound by the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, the Grid Code, as amended and revised from time to time.

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

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

7.1.4 In case of pooling of multiple Projects, power from multiple Projects can be pooled at a Pooling Substation prior to the Delivery point and the combined power can be fed at Delivery point through a common transmission line from the Pooling Substation. In such cases, ABT compliant sub-meters as per relevant regulation/approval are also to be set up at pooling substation for individual projects in addition to the meters at Delivery Point as described in clause 7.1.3.

7.2 Reporting of Metered Data and Parameters

7.2.1 The grid connected Wind Power Projects will install necessary equipment for regular monitoring of ambient air temperature, wind speed and other weather parameters and simultaneously for monitoring of the electric power generated from the Project.

7.2.2 Online arrangement would have to be made by the WPD for submission of above data regularly for the entire period of this Power Purchase Agreement to the SLDC, SECI and the concerned Ministry or concerned agency as per applicable regulation / directions.

7.2.3 Reports on above parameters on a frequency as decided by SECI, and/or as required by regulation / Guidelines, shall be submitted by the WPD to MNRE/SECI/National Institute of Wind Energy through SECI for entire Term of the PPA.

ARTICLE 8: INSURANCES

8.1 ***Insurance***

8.1.1 The WPD 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, SECI shall have claim on such proceeds of such Insurance limited to outstanding dues of SECI against the Buying Utility(ies) as per PSA entered into and any other dues of the Buying Utility(ies) against WPD.

8.3 ***Effect on liability of SECI***

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 WPD can claim compensation, under any Insurance shall not be charged to or payable by Buyer. It is for the WPD to ensure that appropriate insurance coverage is taken for payment by the insurer for the entire loss and there is no under insurance or short adjustment etc.

ARTICLE 9: APPLICABLE TARIFF

9.1 The WPD shall be entitled to receive the Tariff of Rs. ……../ kWh [Insert the Tariff discovered through the bidding process conducted by SECI], fixed for the entire term of this Agreement, with effect from the SCD, for the power sold by the Buyer to the Buying Entity for the scheduled energy as reflected in the Energy Accounts.

In case of early part-commissioning, till SCD, subject to the consent for such purchase by the Buying Utility, SECI may purchase the generation at the PPA tariff. In both the cases of early part or full commissioning of the Project, the Applicable Tariff for the commissioned Project shall be _____[Insert Tariff]/kWh from and including the SCD.

9.2 Any excess generation over and above energy specified in Article 4.4.1, will be purchased by SECI at a tariff of 75% of the tariff as per Article 9.1, provided the Buying Entity consents for purchase of such excess generation. Any energy produced and flowing into the grid before SCD shall not be at the cost of SECI. SECI may agree to buy such power provided Buying Entity consents to purchase such energy.
While calculating the above value of 75% of the PPA tariff, the digits after 2 decimal places will be ignored. For eg., in case the value of 75% of the PPA tariff is calculated as 2.4567/kWh, the tariff applicable for purchase in case of early commissioning will be read as Rs. 2.45/kWh.
However, the WPD will not be allowed to sell energy generated prior to SCD or excess energy during any Contract Year to any other entity other than SECI (unless refused by SECI).

ARTICLE 10: BILLING AND PAYMENT

10.1 *General*

10.1.1 Pursuant to Article 4.1.1 (l), SECI shall set up a payment security fund for Wind Power Projects in order to ensure timely payment. This fund will have a corpus to cover 3 months' payment.

10.1.2 From the commencement of supply of power, SECI shall pay to the WPD 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 SECI shall be in Indian Rupees.

10.1.3 For the purpose of payment of the bills raised by the WPD(s), in case Energy Account is published on cumulative basis, payment to the WPD(s) for the energy delivered shall be apportioned based on JMR taken for the WPD's Project at the Pooling substation/metering Point.

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

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

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

10.2.1 The WPD shall issue to SECI 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 WPD for

drawal of power, payment of reactive energy charges, Metering charges or any other charges as per guidelines of SERC/CERC, if applicable.

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.

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

10.3 ***Payment of Monthly Bills***

10.3.1 SECI shall pay the amount payable under the Monthly Bill/Supplementary Bill by the Due Date to such account of the WPD, as shall have been previously notified by the WPD 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 SECI, if any, from the WPD, 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.

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

10.3.3 **Late Payment Surcharge**

In the event of delay in payment of a Monthly Bill by SECI beyond the Due Date, a Late Payment Surcharge shall be payable by SECI to the WPD on the outstanding payment, at the base rate of Late Payment Surcharge applicable for the period for the first month of default. "Base rate of Late Payment Surcharge" means the marginal cost of funds based lending rate for one year of the State Bank of India, as applicable on the 1st April of the financial year in which the period lies, plus five percent (500 bps) and in the absence of marginal cost of funds based lending rate, any other arrangement that substitutes it, which the Central Government may, by notification, in the Official Gazette, specify.

The Late Payment Surcharge shall be claimed by the WPD through the Supplementary Bill. Late Payment Surcharge shall be payable on the outstanding payment at the base rate of Late Payment Surcharge applicable for the period for the first month of default. The rate of Late Payment Surcharge for the successive months of default shall increase by 0.5 percent (50 bps) for every month of delay provided that the Late Payment Surcharge shall not be more than 3 percent higher than the base rate at any time.

If the period of default lies in two or more financial years, the base rate of Late Payment Surcharge shall be calculated separately for the periods falling in different years.

The above payment will be made by SECI subject to such late payment surcharge being duly received by SECI under the PSA from the Buying Entity(ies).

10.3.4 Subject to the Article 9 of this Agreement, in the event of early Commissioning of the Project and subject to acceptance by SECI, the payment for the power fed to the grid may be accounted from the date of UCOD, and WPD would be allowed to raise Bills against such power as per Article 10.2.1, subject to the conditions as stipulated in Article 9. However, payment against the 1st such bill raised by the WPD, will be made subject to acceptance of the bill by the Discom.

10.3.5 **Rebate**

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

a) A Rebate of 1.5% shall be payable to the SECI 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 up to and including the 30th Day 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 SECI.

d) No Rebate shall be payable on the Bills raised on account of Change in Law (except in case of annuity tariff model being implemented, where rebate will be applicable) relating to taxes, duties, cess etc. and on Supplementary Bill.

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

10.4 **Payment Security Mechanism**

Letter of Credit (LC):

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

10.4.2 Before the start of supply, SECI through a scheduled bank open a Letter of Credit in favour of the WPD, 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 110% of the estimated average monthly billing;

ii) for each subsequent Contract Year, equal to 110% of the average of the monthly billing of the previous Contract Year.

10.4.3 Provided that the WPD 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.

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

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

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

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

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

i) a copy of the Monthly Bill or Supplementary Bill (only for energy related bills) which has remained unpaid to WPD and;

ii) a certificate from the WPD 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 SECI does not dispute a Monthly Bill or a Supplementary Bill raised by the WPD within thirty (30) days of receiving such Bill shall be taken as conclusive.

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

i) the details of the disputed amount;

ii) its estimate of what the correct amount should be; and

iii) all written material in support of its claim.

10.5.3 If the WPD agrees to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.5.2, the WPD 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 WPD 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 SECI 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 SECI under Article 10.5.4, authorized representative(s) or a director of the board of directors/ member of board of the SECI and WPD 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.

10.5.7For the avoidance of doubt, it is clarified the despite a Dispute regarding an invoice, SECI 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 within30 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 WPD and SECI shall jointly sign such reconciliation statement. Within fifteen (15) days of signing of a reconciliation statement, the WPD 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 WPD 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 SECI shall remit all amounts due under a Supplementary Bill raised by the WPD to the WPD'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. Except for payment under Article 10.7.1 (i), payment of Supplementary Bills will be made after realization of the same from the Buying Utility. No surcharge will be applicable other than that on the monthly energy payment and associated debit and credit note.

ARTICLE 11: FORCE MAJEURE

11.1 *Definitions*

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

11.2 *Affected Party*

11.2.1 An affected Party means Buyer or the WPD whose performance has been affected by an event of Force Majeure.

11.3 *Force Majeure*

11.3.1 A 'Force Majeure' means any event or circumstance or combination of events those stated below that wholly or partly prevents or unavoidably delays an Affected Party in the performance of its obligations under this Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the Affected Party and could not have been avoided if the Affected Party had taken reasonable care or complied with
Prudent Utility Practices:

a) Act of God, including, but not limited to lightning, drought, fire and explosion (to the extent originating from a source external to the site), earthquake, volcanic eruption, landslide, flood, cyclone, typhoon or tornado if and only if it is declared / notified by the competent state / central authority / agency (as applicable);

b) 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 if and only if it is declared / notified by the competent state / central authority / agency (as applicable); or

c) 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 Power Project by the Affected Party or those employed or engaged by the Affected Party.

d) An event of Force Majeure identified under Buyer-Buying Entity(ies) PSA, thereby affecting delivery of power from WPD to Buying Entity(ies).

11.4 *Force Majeure Exclusions*

11.4.1 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.

11.5 *Notification of Force Majeure Event*

11.5.1 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. 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. The other Party shall take a decision on the claim of the Affected Party within 15 days of receipt of the said intimation of Force Majeure.

11.5.2 Provided that such notice shall be a pre-condition to the Affected Party's entitlement to claim relief under this Agreement. 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 monthly) reports on the progress of those remedial measures and such other information as the other Party may reasonably request about the Force Majeure Event.

11.5.3 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 this Agreement, as soon as practicable after becoming aware of each of these cessations.

11.6 ***Duty to Perform and Duty to Mitigate***

11.6.1 To the extent not prevented by a Force Majeure Event pursuant to Article 11.3, 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.

11.7 ***Available Relief for a Force Majeure Event***

11.7.1 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.

ARTICLE 12: CHANGE IN LAW

12.1 Definitions

In these rules, unless the context otherwise requires, -

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

i. a change in interpretation of any law by a competent court or

ii. a change in any domestic tax, including duty, levy, cess, charge or surcharge by the Central Government, State Government or Union territory administration leading to corresponding changes in the cost,

iii. a change in any condition of an approval or license obtained or to be obtained for purchase, supply or transmission of electricity, unless specifically excluded in the agreement for the purchase, supply or transmission of electricity, which results in any change in the cost,

but does not include-

A. Any change in any withholding tax on income or dividends distributed to the shareholders of the generating company or transmission licensee; or

B. change in respect of deviation settlement charges or frequency intervals by an Appropriate Commission.

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

12.2 Relief for Change in Law

12.2.1 On the occurrence of a change in law, the monthly tariff or charges shall be adjusted and be recovered in accordance with these rules to compensate the affected party so as to restore such affected party to the same economic position as if such change in law had not occurred.

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

12.2.3 The affected party shall furnish to the other party, the computation of impact in tariff or charges to be adjusted and recovered, within thirty days of the occurrence of the change in law or on the expiry of 21days from the date of the notice referred to in 12.2.2 above, whichever is later, and the recovery of the proposed impact in tariff or charges shall start from the next billing cycle of the tariff.

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

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

Let financial impact of change in law=P

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

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

$$Y = \frac{(P \text{ x } M_r)(1 + M_r)^n}{(1 + M_r)^n - 1}$$

Where, -

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

M_r =monthly rate of interest=R/(12x100) and

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

R = annual rate of interest on loan component (in %) as considered by the CERC in its order for Tariff Determination from Conventional or Renewable Energy Sources (Whichever is applicable) for the year in which the Project is commissioned. In absence of relevant orders of CERC for the concerned year, the interest rate shall be average interest rate plus 200 basis points above the average State Bank of India

marginal cost of funds based leading rate, of one-year tenor, prevalent during the last available six months for such period.

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

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

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

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

a. In case of generation project, within a period of one-hundred eighty months; or

b. In case of recurring impact, until the impact persists.

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

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

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

12.3 Notification of Change in Law

12.3.1 The WPD shall, within thirty days of the coming into effect of the recovery of impact of change in law, furnish all relevant documents along with the details of calculation to the Appropriate Commission for adjustment of the amount of the impact in the monthly tariff or charges.

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

12.3.3 "Project Cost" wherever applicable under this Article, shall mean the cost incurred by the WPD towards supply and services only for the Project concerned, upto the Actual Commissioning Date of the last part capacity or Scheduled Commissioning Date or extended Scheduled Commissioning Date, whichever is earlier. For example, in case the Actual Commissioning Date of the last part capacity is 15.04.2022, Scheduled Commissioning Date is 15.03.2022 and extended Scheduled Commissioning Date is 01.04.2022, the Project Cost shall be determined as the cost incurred by the WPD upto 01.04.2022.

ARTICLE 13: EVENTS OF DEFAULT AND TERMINATION

13.1 *WPD 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 SECI or Buying Entity(ies) of its obligations under this Agreement, shall constitute an WPD Event of Default:

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

if

a) the WPD 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 WPD 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 WPD 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 WPD, or (c) the WPD 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 WPD will not be a WPD 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 WPD and expressly assumes all obligations of the WPD under this Agreement and is in a position to perform them; or

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

(iv) except where due to any SECI's failure to comply with its material obligations, the WPD is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the WPD within thirty (30) days of receipt of first notice in this regard given by SECI.

(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 WPD.

(vii) except where due to any SECI's failure to comply with its material obligations, the WPD is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the WPD within thirty (30) days of receipt of first notice in this regard given by SECI.

13.2 *SECI 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 WPD of its obligations under this Agreement, shall constitute the Event of Default on the part of defaulting SECI:

(i) SECI 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 WPD is unable to recover the amount outstanding to the WPD through the Letter of Credit,

(ii) SECI repudiates this Agreement and does not rectify such breach even within a period of sixty (60) days from a notice from the WPD in this regard; or

(iii) except where due to any WPD's failure to comply with its obligations, SECI is in material breach of any of its obligations pursuant to this Agreement, and such material breach is not rectified by SECI within sixty (60) days of receipt of notice in this regard from the WPD to SECI; or if

- SECI 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 SECI, or

- SECI 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 SECI Event of Default, where such dissolution or liquidation of Buyer or SECI 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 SECI and expressly assumes all obligations of SECI and is in a position to perform them; or;

(iv) If Buying Entities are subject to any of the above defaults and SECI does not designate another or other Buying Entities for purchase of power.

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

13.3 ***Procedure for cases of WPD Event of Default***

13.3.1 Upon the occurrence and continuation of any WPD Event of Default under Article 13.1, SECI shall have the right to deliver to the WPD, with a copy to the representative of the lenders to the WPD with whom the WPD has executed the Financing Agreements, a notice stating its intention to terminate this Agreement (SECI 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 SECI Preliminary Default Notice, the Consultation Period of ninety (90) days or such longer period as the Parties may agree, shall apply and it shall be the responsibility of the Parties to discuss as to what steps shall be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.

13.3.3 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 WPD Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, SECI may terminate this Agreement by giving a written Termination Notice of sixty (60) days to the WPD.

13.3.5 Subject to the terms of this Agreement, upon occurrence of a WPD Event of Default under this Agreement, the WPD shall be liable to pay to SECI, 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 WPD shall be liable pay to SECI, damages, equivalent to 6 (six) months, or balance PPA period whichever is less, of charges for its contracted capacity. SECI shall have the right to recover the said damages by way of forfeiture of bank guarantee/Payment on Order Instrument, 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 Buying Entity and SECI, may exercise their rights, if any, under Financing Agreements, to seek substitution of the WPD by a selectee for the residual period of the Agreement, for the purpose of securing the payments of the total debt amount from the WPD and performing the obligations of the WPD. However, in the event the lenders are unable to substitute the defaulting WPD within the stipulated period, SECI may terminate the PPA and the Buying Entity 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 SECI including the condition that the selectee meets the eligibility requirements of Request for Selection (RfS) issued by SECI and accepts the terms and conditions of this Agreement.

13.3.6 The lenders in concurrence with the Buying Utility and SECI, 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 WPD shall cooperate with SECI to carry out such substitution and shall have the duty and obligation to continue to operate the Power Project in accordance with this PPA till such time as the substitution is finalized. In the event of Change in Shareholding/Substitution of Promoters triggered by the Financial Institutions leading to signing of fresh PPA with a new entity, an amount of Rs. 10 Lakh per Project+ 18% GST per transaction as facilitation fee (non-refundable) shall be deposited by the WPD to SECI.

13.3.7 In the event the lenders are unable to substitute the defaulting WPD within the stipulated period, SECI may terminate the PPA and the Buying Utility 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 SECI Event of Default*

13.4.1 Upon the occurrence and continuation of any SECI Event of Default specified in Article 13.2, the WPD shall have the right to deliver to SECI, a WPD 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 WPD Preliminary Default Notice, the Consultation Period of ninety (90) days or such longer period as the Parties may agree, shall apply and it shall be the responsibility of the Parties to discuss as to what steps shall be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.

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

13.4.4 After a period of two hundred ten (210) days following the expiry of the Consultation Period and unless the Parties shall have otherwise agreed to the contrary or SECI Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, SECI under intimation to the Buying Entity and the WPD shall, subject to the prior consent of the WPD, 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 WPD, or if no offer of novation is made by SECI

within the stipulated period, then the WPD may terminate the PPA and at its discretion require Buying Entity to either (i) takeover the Project assets by making a payment of the termination compensation equivalent to the amount of the Debt Due and 150% (one hundred and fifty per cent) of the Adjusted Equity less Insurance Cover, if any, or, (ii) pay to the WPD, damages, equivalent to 6 (six) months, or balance PPA period whichever is less, of charges for its contracted capacity, with the Project assets being retained by the WPD.

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 WPD.

In the event of termination of PPA, any damages or charges payable to the STU/ CTU, for the connectivity of the plant, shall be borne by the Buying Entity.

13.5 Termination due to Force Majeure

If the Force Majeure Event or its effects continue to be present beyond the period as specified in Article 4.5.3, either Party shall have the right to cause termination of the Agreement. In such an event, this Agreement shall terminate on the date of such Termination Notice without any further liability to either Party from the date of such termination.

ARTICLE 14: LIABILITY AND INDEMNIFICATION

14.1 *Indemnity*

14.1.1 The WPD shall indemnify, defend and hold SECI harmless against:

a) any and all third party claims against SECI 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 WPD of any of its obligations under this Agreement or due to the WPD's willful 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 SECI from third party claims arising by reason of a breach by the WPD of any of its obligations under this Agreement, (provided that this Article 14 shall not apply to such breaches by the WPD, for which specific remedies have been provided for under this Agreement).

14.1.2 SECI shall cause the Buying Entity(ies) to indemnify, defend and hold the WPD harmless against:

a) any and all third party claims against the WPD, 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 Buying Entity(ies) of any of their obligations under this Agreement; and

b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest ('Indemnifiable Losses') actually suffered or incurred by the WPD from third party claims arising by reason of a breach by Buying Entity(ies) of any of its obligations. SECI shall incorporate appropriate covenants in the PSA for the above obligations of Buying Entity(ies). In so far as indemnity to WPD is concerned, Buying Entity(ies) shall be the indemnifying party and not SECI.

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 nonpayment of such losses after a valid notice under this Article 14.3, such event shall constitute a payment default under Article 13.

14.4 *Limitation on Liability*

14.4.1 Except as expressly provided in this Agreement, neither the WPD nor SECI nor Buying Entity(ies) 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 Buying Entity(ies) , the WPD or others), strict liability, contract, breach of statutory duty, operation of law or otherwise.

14.4.2 SECI shall have no recourse against any officer, director or shareholder of the WPD or any Affiliate of the WPD or any of its officers, directors or shareholders for such claims excluded under this Article. The WPD shall have no recourse against any officer, director or shareholder of Buyer or Buying Entity(ies) , or any affiliate of Buyer or any of its officers, directors or shareholders for such claims excluded under this Article.

14.5 SECI's Liability

14.5.1Notwithstanding anything to the contrary contained in this Agreement, the Parties acknowledge and accept that the SECI is an Intermediary Company to purchase and resell the electricity to the Buying Utility(ies) to enable them to fulfill the Renewable Purchase Obligations (RPO) and, therefore, the performance of the obligations of the SECI under this Agreement shall be subject to the ability of the SECI to enforce the corresponding obligations assumed by the Buying Utility(ies) on re-sale under the Power Sale Agreement to be entered into by the Buying Utility(ies) with SECI. It is

however, specifically agreed that the payment of money becoming due from the SECI to the WPD under this Agreement for supply of Wind Power to the extent of the Contracted Capacity shall not be on a back to back basis and will be as per:

(i) the recourse under the Payment Security Mechanism provided in the PPA and PSA, as follows:

a) Letter of Credit;

(b) State Government Guarantee/ Tri-Partite Agreement (TPA) signed between Reserve Bank of India, Central Government and State Government of the Buying Entity, covering security for payment of energy charges, as applicable

(c) Payment Security Fund provided by the Buying Entity, and

(ii) Payment security fund as referred in Article 10.1.1 of the PPA. SECI shall discharge the tariff payment obligation in terms of the provisions of this Agreement.

14.5.2 The parties agree that in respect of the obligations other than the tariff payment obligation specifically mentioned herein above, in the event the WPD has any claim against the SECI in regard to the performance of any obligation of the SECI under this Agreement or enforcement of any right of the WPD against the SECI under this Agreement, the same shall be subject to the ability of the SECI to enforce the corresponding obligations assumed by the Buying Utility(ies) under the Power Sale Agreement to be entered into between the SECI and the Buying Utility(ies) on resale on mutatis mutandis basis and not otherwise.

14.6 Duty to Mitigate

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

ARTICLE 15: ASSIGNMENTS AND CHARGES

15.1 *Assignments*

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

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

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

The enforcement of the rights and obligation between the WPD and the Buying Utility (ies) provided in this Agreement and in the PSA shall not be treated as an assignment but an enforcement of the terms agreed under this Agreement.

Provided further that any successor(s) or permitted assign(s) identified after mutual agreement between the Parties may be required to execute a new agreement on the same terms and conditions as are included in this Agreement. An amount of Rs. 5 Lakh per Transaction as Facilitation Fee (non-refundable) shall be deposited by the WPD to SECI. Provided further that, such consent shall not be withheld by the WPD if SECI 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 WPD to SECI.

15.2 *Permitted Charges*

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

ARTICLE 16: GOVERNING LAW AND DISPUTE RESOLUTION

16.1 *Governing Law*

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

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.

(iii) the Dispute shall be referred for dispute resolution in accordance with Article 16.3.

16.3 ***Dispute Resolution***

16.3.1**Dispute Resolution by the Appropriate Commission**

i) Where any Dispute or differences arises in relation to this agreement of any nature whatsoever including the construction, interpretation or implementation of the provisions of this agreement as well as claim made by any Party for any change in or determination of the Tariff or any matter related to Tariff or claims made by any Party which partly or wholly relate to any change in the Tariff or determination of any of such claims could result in change in the Tariff, and relates to any matter agreed to be referred to the Appropriate Commission, shall be submitted to adjudication by the Appropriate Commission. Appeal against the decisions of the Appropriate Commission shall be made only as per the provisions of the Electricity Act, 2003, as amended from time to time.

ii) SECI shall be entitled to co-opt the Buying Entity(ies) and/or the lenders (if any) as a supporting party in such proceedings before the Appropriate Commission.

16.3.2 **Not used.**

16.4 ***Parties to Perform Obligations***

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

ARTICLE 17: MISCELLANEOUS PROVISIONS

17.1 *Amendment*

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

17.2 *Third Party Beneficiaries*

17.2.1 Subject to provisions contained in this agreement relating to back to back implications of the PPA as well as PSA, 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 WPD, all notices or other communications which are required must be delivered personally or by registered post or facsimile or any other method duly acknowledged to the addresses below:

Address :

Attention :

Email :

Fax. No. :

Telephone No. :

17.6.3 If to SECI, 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:

(i) Address :

Attention

Email :

Fax. No. :

Telephone No. :

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

the recipient refused to acknowledge the receipt of the notice despite efforts of the postal authorities.

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

17.7 *Language*

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

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

17.8 *Restriction of Shareholders / Owners' Liability*

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

17.9 *Taxes and Duties*

17.9.1 The WPD shall bear and promptly pay all statutory taxes, duties, levies and cess, assessed/ levied on the WPD, contractors or their employees that are required to be paid by the WPD 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 SECI shall be indemnified and held harmless by the WPD against any claims that may be made against SECI in relation to the matters set out in Article 17.9.1.

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

17.10 ***Independent Entity***

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

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

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. The duly executed Power Sale Agreement between SECI and Buying entity(s) as attached to this Agreement shall be read along with this Agreement as a composite back to back agreement for Generation and supply of electricity to the Buying entity(s), particularly, to fulfill the Renewable Purchase Obligations under the provisions of the Electricity Act, 2003 and the Regulations notified thereunder.

17.13*Breach of Obligations*

The Parties acknowledge that a breach of any of the obligations contained herein would result in injuries. The Parties further acknowledge that the amount of the liquidated damages or the method of calculating the liquidated damages specified

in this Agreement is a genuine and reasonable pre-estimate of the damages that may be suffered by the non-defaulting party in each case specified under this Agreement.

17.14*Order of priority in application*

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

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

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

For and on behalf of [SECI]	For and on behalf of [WPD]
Name, Designation and Address	Name, Designation and Address
Signature with seal	Signature with seal
Witness: 1.	Witness: 1.
2.	2.

SCHEDULE 1: FORMAT FOR PERFORMANCE BANK GUARANTEE (PBG)

(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 Wind Power Developer') submitting the response to RfS inter alia for …….. [Insert name of the RfS] of the capacity of …….. MW, at ……[Insert name of the place], for supply of power there from on long term basis, in response to the RfS dated…… issued by Solar Energy Corporation of India Ltd (hereinafter referred to as SECI) and SECI considering such response to the RfS of ……[insert the name of the selected Wind Power Developer] (which expression shall unless repugnant to the context or meaning thereof include its executers, administrators, successors and assignees) and selecting the Wind Power Project of the Wind Power Developer and issuing Letter of Award No ------- to _____ (Insert Name of selected Wind Power Developer) as per terms of RfS and the same having been accepted by the selected WPD resulting in a Power Purchase Agreement (PPA) to be entered into, for purchase of Power [from selected Wind 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 SECI at [Insert Name of the Place from the address of the SECI] forthwith on demand in writing from SECI or any Officer authorized by it in this behalf, any amount up to and not exceeding Indian Rupees------ [Total Value] only, on behalf of M/s _____ [Insert name of the selected Wind Power Developer / Project Company].

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

Our liability under this Guarantee is restricted to INR _____ (Indian Rupees _____ only).
Our Guarantee shall remain in force until…….. SECI shall be entitled to invoke this Guarantee till …….

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

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

This BANK GUARANTEE shall be interpreted in accordance with the laws of India and the courts at Delhi 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 SECI shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against the selected Wind Power Developer / Project Company , to make any claim against or any demand on the selected Wind Power Developer / Project Company or to give any notice to the selected Wind Power Developer / Project Company or to enforce any security held by SECI or to exercise, levy or enforce any distress, diligence or other process against the selected Wind 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 SECI.

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

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

Signature _____

Name_____

Power of Attorney No._____

For

_____[Insert Name and Address of the Bank]__

Contact Details of the Bank:

E-mail ID of the bank:

Banker's Stamp and Full Address.

Dated this ____ day of ____, 20__

Witness:

1. …….
Signature

Name and Address

2. ……..
Signature

Name and Address

Notes:

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

SCHEDULE 2: FORMAT OF PAYMENT ON ORDER INSTRUMENT TO BE ISSUED BY IREDA/REC/PFC (IN LIEW OF PBG)

(to be submitted separately for each Project)

No. Date

SECI, **Registered**

_____,

_____

Reg: M/s _____(insert name of the PPA signing entity) (Project No. _____(insert project ID issued by SECI) – 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 _____, onbehalf 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 Wind 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 Solar Energy Corporation of India Ltd (hereinafter referred to as SECI) and SECI considering such response to the RfS of ……[insert the name of the selected Wind Power Developer] (which expression shall unless repugnant to the context or meaning thereof include its executers, administrators, successors and assignees) and selecting the Wind Power Project of the Wind Power Developer and issuing Letter of Award No ------- to (Insert Name of selected Wind Power Developer) as per terms of RfS and the same having been accepted by the selected WPD resulting in a Power Purchase Agreement (PPA) to be entered into, for purchase of Power [from selected Wind 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 SECI at [Insert Name of the Place from the address of the SECI] forthwith on demand in writing from SECI 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 Wind 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 SECI 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 SECI 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 them against SECI;

(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 alternation made given or agreed with or without knowledge or consent of the parties (SECI 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 SECI made in any format within the validity period. IREDA/REC/PFC shall not require SECI to justify the invocation of the POI against the SPV/WPD, to make any claim against or any demand against the SPV/WPD or to give any notice to the SPV/WPD;

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

(h) Neither SECI is required to justify the invocation of this POI nor shall IREDA/REC/PFC have any recourse against SECI 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 upto_____ 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 SECI have signed an Umbrella Agreement dated ____ setting out the terms and conditions for issue of letter of undertaking by IREDA/REC/PFC to SECI 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. __PP_____

_____

_____ As per their request

( )
General Manager (TS)

SCHEDULE 3: COMMISSIONING PROCEDURE:

A. Definitions

1. ***Maximum AC Capacity:*** Maximum AC Capacity at the delivery point shall be equal to the Contracted Capacity as per the PPA.
   For a project comprising **'n'** no. of wind turbines, each 'N_i^{th}' turbine having a unique rating of 'M_i' MW, the total installed capacity shall be equal to $\sum_{i=1}^{i=n}$ NiXMi MW, which shall be greater than or equal to the Contracted capacity. (*WPDs may configure the project with different turbine capacity, subject to the above upper limit of injection at the Delivery point.*)

2. ***Commissioning Capacity:*** Commissioning Capacity will mean the cumulative capacity of wind turbines installed, which shall be declared as per the commissioning procedure. In case of part commissioning of the Project and in case the Project contains a Solar PV power generation component, part commissioning cannot be construed by just installing solar power capacity, the WPD shall be allowed to install solar capacity in proposed ratio of installed wind power capacity on pro-rata basis. However, the WPD shall be allowed to install wind power capacities individually without installing solar capacity. Commissioning capacity is permitted to exceed the maximum AC capacity upto the limits as per the RfS.

3. ***Connection***: A Project shall be deemed to be connected to the grid when the transmission lines originating from the Project physically meet the common bus bar of the incoming feeder of CTU substation. The line may or may not be charged at this stage.

4. ***Synchronization:*** The Wind turbine(s) shall be deemed to be synchronized to the grid when the transmission line and the incoming feeder at the CTU Substation have been charged and power flows from the turbine(s) into the grid. The same shall be reflected through a meter reading at the CTU substation.

5. ***Project Commissioning:*** The Project shall be declared as commissioned when the total rated commissioning capacity, along with the necessary evacuation infrastructure, has been installed and non-zero energy flows into the grid from the Project, which shall be verified by the Commissioning Committee. The date of Commissioning of the Project shall be indicated in the Commissioning Certificate issued for the Project.

B. Commissioning Procedure

1. Wind Power Developer (WPD) shall give to CTU/PGCIL, State Nodal Agency (SNA), Concerned RLDC and SECI at least thirty (30) days' final written notice, of the date on which it intends to synchronize the Project to the Grid System. The WPD shall be solely responsible for any delay or non-receipt of the notice by the concerned agencies, which may in turn affect the commissioning schedule of the Project.

2. Wind Power Developer shall ensure that the Wind Turbine Generators (WTGs) have been installed and completed in all aspects and the Project is synchronized to the grid in order for it to be declared as being commissioned. The Project may be synchronized with the

grid on WTG-basis.

3. Part Commissioning of Project would be considered subject to the condition that minimum capacity for acceptance of first part commissioning shall be at least 50 MW, without prejudice to the imposition of penalty, in terms of the PPA on the part which is not commissioned. The projects can further be commissioned in parts of at least 25 MW batch size; with last part could be the balance capacity.

4. Early Commissioning of a Project prior to the SCD is permitted on acceptance of power by SECI. In order to facilitate this, WPDs shall inform the concerned agencies and SECI well in advance regarding the date it intends to synchronize the Power Project to the Grid System.

5. Prior to being declared as being commissioned, the Project shall be inspected by the CEIG/CEI (as applicable) and all the approval for all the components, including the wind turbines, along with all annexures/attachments, such as approval of the CEA under Section 68 and Section 164 of the Electricity Act, shall be obtained by the WPD prior to be declared as fit for synchronization of the Project.

6. In line with CERC Order No. 1/14/2015-Reg.Aff.(FSDS-Proced.)/CERC dated 03.03.2017, WPD shall provide data telemetry at the WTG level to the concerned RLDC. Line of confirmation received from RLDC/CTU with regards to above is required Prior to visit for witnessing the commissioning activities.

7. No personnel shall be deputed from SECI for physical verification/ witnessing of the commissioning.

8. Finally, Project may be declared commissioned subject to WPD fulfilling the points listed below and the Commissioning Certificate, in line with Annexure-II, shall be issued by SECI .

Documents to be submitted to SECI Prior to Commissioning

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

a. Synchronization certificate as per Annexure-I of Commissioning Procedure
b. Board Resolution for the nomination of WPD's representative pertaining to commissioning
c. Clearance from Financial Closure Committee, if any. WPD shall submit the documentary evidence of possession / right to use of 100% of the land identified for the Project till revised Scheduled Commissioning Date of the Project. However, in case of part-commissioning of the project, land corresponding to the part capacity being commissioned shall be required to be demonstrated by WPD prior to declaration of commissioning of the said part capacity.
d. Affidavit from the authorized signatory of the WPD, stating that the Wind turbines installed in the said Project have been procured from a turbine manufacturer listed in the RLMM issued by MNRE, as on the date of Financial Closure date of the respective Project or date of commissioning as the case may be.

e. Plant Layout along with the SLD, clearly mentioning the details of WTG size and capacity along with the individual WTG Serial Nos., their locations, feeder details, 230/220/33kV Pooling Sub Station and Grid Substation
f. CEIG/CEA Certification of Proposed WTGs
g. CEIG/CEA approval for 33 KV Transmission Line(s) and Feeders
h. Copy of Transmission Service Agreement along with Permission for LTA/MTOA
i. Snap shots of the plant from various angles, including but not limited to, WTGs, switchyards\switchgears, Power Transformers, SCADA (screenshots with time stamped WMS data and Energy generation data), metering (Main, Check and Standby Meters as applicable) at delivery point etc.)
j. Relevant documents from SLDC/ RLDC acknowledging successful data communication between plant end and SLDC/RLDC
k. Letter from State Nodal Agency (SNA) regarding approval of WTGs Locations.
l. Confirmation of compliance to all requirements of grid by concerned RLDC.
m. Joint meter reading duly signed by representative of WPD and PGCIL.
n. An undertaking stating that the information provided for commissioning of the Project are complete in all respects and true and that SECI may physically verify the project post commissioning, if required, and SECI will have full right to revoke the commissioning certificate if any discrepancy is found.

Physical verification, if required, will be as stated in 1(n) above. Based on the above documents, the project shall be acknowledged as having been commissioned and Commissioning Certificate shall be issued by SECI. COD Certificate will be issued by SECI to enable scheduling of the Project at the earliest.

Note:

I. The WPDs may initiate synchronization of individual WTG with the grid, as per their project completion schedule, under intimation to WRLD/SECI/SNA. The Commissioning of the Project shall be declared only upon synchronization of minimum cumulative capacity required to declare part commissioning of the Project under the RfS.

II. It is re-iterated that the date of project commissioning shall be as per the dates indicated on the Commissioning Certificate issued by the SECI. Energy accounting of the Project shall commence from the date based on the declaration of COD of the project in line with the provisions of the RfS and PPA.

III. Wind Power Developers would be required to plan commissioning at least ten days ahead of the last permissible date for commissioning in accordance with MNRE guidelines/RfS. If not done so, whole responsibility for not meeting the deadline for commissioning rests solely with the WPD.

Annexure-I of Commissioning Procedure

Synchronization Declaration

(To be issued by WPD)

It is certified that ----- MW (Capacity) Wind Power Project of M/s. -----, Village -_____ ------ Tehsil/Taluka --------, District ---------- was synchronized with the grid on ……. (Date) supply of power into the grid from the Project connected on …… (Date).

Details of the Wind Turbines are as follows:
No. of machines: _____
Rating of each WTG:_____ MW.
Cumulative Capacities of WTGs Synchronized:_____ MW.

Sl. No.	WTG No.	Rated Capacity of WTG	WTG Location (Village, Taluk, Dist.)	Approved ID No. Given By SNA	Feeder No.	Date of Synchronization with Grid
Total (MW)						

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

Annexure-II of Commissioning Procedure

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

Ref: Dated:

This is to certify that **M/s _____ (insert name of the WPD)** has successfully commissioned _____(insert installed Project capacity) **MW** ISTS-connected Wind Power Project [Project ID: _____] consisting of _____ (insert no. of turbines) numbers of new Wind Turbine Generators on _____ at Villages _____in _____ District in the State of _____, under the RfS for Setting up of 1200 MW ISTS-connected Wind Power Projects (Tranche-_____) issued by SECI. Commercial Operation Date (COD) of _____ MW ISTS-Connected Wind Power Project is to be considered from 00:00 hrs of _____.

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

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

(_____)

Name and signature of the Authorized signatory of SECI

Enclosure: Annexure 1

Annexure-I*

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

**May be changed as per requirement*

SCHEDULE 4: SECI-BUYING ENTITY(IES) POWER SALE AGREEMENT(S)