

SEABED LEASE AGREEMENT

BY AND BETWEEN

MINISTRY OF NEW AND RENEWABLE ENERGY, GOVERNMENT OF INDIA

(the “Lessor”)

AND

[insert name of the Successful Bidder]

(the “Lessee”)

DATED: _____

TABLE OF CONTENTS

ARTICLE 1:	8
DEFINITIONS AND INTERPRETATION	8
1.1 Definitions	8
1.2 Interpretation	15
1.3 Measurements and arithmetic conventions	18
1.4. Priority of agreement clauses and schedules	18
ARTICLE 2:	19
SCOPE OF PROJECT	19
2.1 Scope of the Project	19
ARTICLE 3:	20
GRANT OF LEASE	20
3.1 Grant of Lease and Permitted Activities	20
3.2 Handover of Seabed	21
3.3 No Proprietary Interest	21
ARTICLE 4:	23
TERM	23
4.1 Term of the Lease	23
ARTICLE 5:	24
CONDITIONS PRECEDENT	24
5.1 Conditions Precedent	24
5.2 Delay by the Lessor	24
5.3 Damages for delay by the Lessee	24
5.4 Non-Achievement of Conditions Precedent	25
ARTICLE 6:	26
LEASE RENTALS	26
ARTICLE 7:	27
LESSEE'S RIGHTS & OBLIGATIONS	27
7.1 Lessee's Obligations	27
7.2 Lessee's Rights	30
7.3 Conduct of Survey	31
7.5 Implementation of Project	33
7.6 Obligation relating to Project Agreements	33
7.7 Obligations relating to Change in Ownership	34
7.8 Employment of foreign nationals	34
7.9 Employment of trained personnel	35
7.10 Sole purpose of the Lessee	35
7.11 Branding of Project	35
ARTICLE 8:	36
OBLIGATIONS OF THE LESSOR	36
8.1 Obligations of the Lessor	36
ARTICLE 9:	37
SECURITY DEPOSIT AND PERFORMANCE SECURITY	37
9.1 Appropriation of Security Deposit	37
9.2 Validity of Security Deposit	37
9.4 Appropriation of Performance Security/ PBG	38
9.5 Decision of the Lessor	38
ARTICLE 10:	39
REPRESENTATIONS AND WARRANTIES	39
10.1 Representations and Warranties	39
10.2 Representations and warranties of the Lessee	39
10.3 Representations and Warranties of the Lessor	41
10.4 Disclosure	41
ARTICLE 11:	42
DISCLAIMER	42
11.1 Disclaimer	42
ARTICLE 12:	43
SEABED	43
12.1 Rights of the Lessee	43

ARTICLE 13:	44
UTILITIES	44
13.1 Shifting of obstructing utilities	44
ARTICLE 14:	45
DEVELOPMENT OF THE PROJECT	45
14.1 Obligations prior to commencement of construction	45
14.2 Construction of Project Facilities	45
14.3 Tests	45
14.4 Suspension	45
ARTICLE 15:	46
MONITORING OF CONSTRUCTION	46
15.1 Quarterly progress reports	46
15.2 Inspection	46
15.3 Livestream of Construction Work	46
ARTICLE 16:	47
ENTRY INTO COMMERCIAL SERVICE	47
16.1 Delay in Construction	47
16.2 Tests	47
16.3 Commercial Operation Date	47
16.4 Part Commissioning	47
ARTICLE 17:	49
OPERATION AND MAINTENANCE	49
17.1 O&M obligations of the Lessee	49
17.2 Maintenance Programme	49
17.3 Lessor's right to take remedial measures	49
17.4 Overriding powers of the Lessor	49
ARTICLE 18:	51
SAFETY REQUIREMENTS	51
18.1 Safety Requirements	51
18.2 Expenditure on Safety Requirements	51
ARTICLE 19:	52
MONITORING OF OPERATION AND MAINTENANCE	52
19.1 Reporting	52
19.2 Inspection	53_Toc174025463
19.3 Remedial measures	53
ARTICLE 20:	54
EMERGENCY MEDICAL AID	54
20.1 Medical Aid Posts	54
ARTICLE 21:	55
FINANCIAL CLOSE	55
21.1 Financial Close	55
21.2 Termination due to failure to achieve Financial Close	55
ARTICLE 22:	56
INSURANCE	56
22.1 Insurance during the Term of the Agreement	56
22.2 Notice to the Lessor	56
22.3 Remedy for failure to insure	56
22.4 Waiver of subrogation	56
22.5 Lessee's waiver	56
22.6 Application of insurance proceeds	57
22.7 No Breach of Insurance Obligation	57
ARTICLE 23:	58
ACCOUNTS AND AUDIT	58
23.1 Audited Accounts	58
23.2 Certification of claims by Statutory Auditors	58
23.3 Set-off	58
ARTICLE 24:	59
FORCE MAJEURE	59
24.1 Definition of Force Majeure	59
24.2 Force Majeure Exclusions	60

24.3	Notice of Force Majeure Event.....	60
24.4	Performance of Obligations.....	60
24.5	Effect of Force Majeure event on the timeline of Financial Close and Term of this Agreement...	61
24.6	Allocation of costs arising out of Force Majeure.....	61
24.7	Termination due to Force Majeure event.....	61
24.8	Liability for other losses, damages etc.....	62
24.9	Dispute resolution	62
ARTICLE 25:.....		63
COMPENSATION FOR BREACH OF AGREEMENT.....		63
25.1	Compensation for default by the Lessee.....	63
25.2	Remedy for default by the Lessor.....	63
25.3	Extension of Term of this Agreement.....	63
25.4	Mitigation of costs and damage	63
ARTICLE 26:.....		64
SUSPENSION OF LESSEE'S RIGHTS.....		64
26.1	Suspension.....	64
26.2	Lessor to act on behalf of the Lessee	64
26.3	Revocation of Suspension	64
26.4	Substitution.....	64
26.5	Termination	65
ARTICLE 27:.....		66
EVENTS OF DEFAULT AND TERMINATION.....		66
27.1	Termination for Lessee Event of Default.....	66
27.2	Termination for Lessor Default.....	68
27.3	Consequences of Termination	69
27.4	Obligation of Parties.....	71
27.5	Withdrawal of Termination Notice	71
27.6	Termination Payment	71
27.7	Other rights and obligations of the Lessor	71
27.8	Survival of rights	72
ARTICLE 28:.....		73
ASSIGNMENT AND CHARGES.....		73
28.1	Restrictions on assignment and charges.....	73
28.2	Permitted assignment and charges.....	73
28.3	Substitution Agreement.....	73
28.4	Assignment by the Lessor	73
ARTICLE 29:.....		74
CHANGE IN LAW		74
29.1	Increase in Cost.....	74
ARTICLE 30:.....		75
LIABILITY AND INDEMNITY.....		75
30.1	General indemnity	75
30.2	Indemnity by the Lessee	75
30.3	Notice and contest of claims.....	76
30.4	Defence of claims	76
30.5	No consequential claims.....	77
30.6	No Waiver	77
30.7	Survival on Termination.....	77
ARTICLE 31:.....		78
UNFORESEEN EVENTS		78
ARTICLE 32:.....		80
DISPUTE RESOLUTION.....		80
32.1	Dispute resolution	80
32.2	Performance during the dispute	80
ARTICLE 33:.....		81
DISCLOSURE.....		81
33.1	Disclosure of specified Documents.....	81
33.2	Disclosure of Documents relating to safety.....	81
ARTICLE 34:.....		82
MISCELLANEOUS.....		82

34.1	Dispute Resolution, Governing Law and Jurisdiction	Error! Bookmark not defined.
34.2	Waiver of Immunity	82
34.3	Depreciation and Interest	82
34.4	Delayed Payments.....	82
34.5	Waiver.....	82
34.6	Liability for review of Documents and Drawings.....	83
34.7	Exclusion of implied warranties etc.....	83
34.8	Survival	83
34.9	Entire Agreement.....	83
34.10	Severability	84
34.11	No partnership.....	84
34.12	Third parties	84
34.13	Successors and assigns.....	84
34.14	Notices.....	84
34.15	Language.....	85
34.16	Counterparts.....	85
	SCHEDULE I.....	87
	DESCRIPTION OF THE SEABED.....	87
	SCHEDULE II:	90
	FORMAT OF BANK GUARANTEE	90
	SCHEDULE III:.....	92
	CONSTRUCTION REQUIREMENTS	92
	SCHEDULE IV:	97
	SAFETY REQUIREMENTS	97
	SCHEDULE V:	103
	SUBSTITUTION AGREEMENT	103
	SCHEDULE VI:	111
	DECOMMISSIONING PROGRAMME	112

SEABED LEASE AGREEMENT

This seabed lease agreement (the “**Seabed Lease Agreement**”) is entered into on this the _____ day of _____, 20__ at _____:

BY AND BETWEEN

1. **The President of India**, represented by _____¹, Ministry of New and Renewable Energy, Government of India, having its office at Atal Akshay Urja Bhawan, Lodhi Road, New Delhi, 110003 (hereinafter referred to as the “**Lessor**”, which expression shall, unless repugnant to the context or meaning thereof, include its successors and assigns) of one part;

AND

2. **M/s _____**, a company incorporated under the provisions of the _____² and having its registered office at _____, (hereinafter referred to as the “**Lessee**” which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns and substitutes) of the other part.

The Lessor and the Lessee are hereinafter individually referred to as a “**Party**” and collectively as the “**Parties**”.

WHEREAS:

- A. Solar Energy Corporation of India Limited, on behalf of Ministry of New and Renewable Energy, had invited proposals by its Request for Selection document No. _____ dated 02.02.2024 for the survey, construction, operation and maintenance of an offshore wind power project, including the transmission system to deliver the power at the offshore substation, on the seabed more particularly detailed and described in **Schedule I** hereto (the “**Seabed**”), on design, build, finance, operate and own basis (the “**Project**”);
- B. After evaluation of the proposals received, Solar Energy Corporation of India had accepted the proposal of _____³ (the “**Successful Bidder**”), and Solar Energy Corporation of India Limited had issued a letter of award dated _____ bearing ref. no. _____ to the Successful Bidder. The Successful Bidder thereafter incorporated a Special Purpose Vehicle, namely M/s _____, for setting up the Project, which shall hereafter, be referred to as Lessee (to be removed if not applicable).
- C. The Lessor and the Lessee/ Successful Bidder had thereafter entered into an agreement to lease dated _____ wherein certain preconditions for grant of a lease in respect of the Seabed were set forth, including, *inter alia*, the obligation on the part of the Lessee/ Successful Bidder to: (i) obtain requisite clearances in connection with commencement of the Survey (*as defined hereinafter*) from the concerned Government Instrumentalities (*as defined hereinafter*), (ii) furnish a refundable security deposit (the “**Study/Survey Security Deposit**”) of an amount of INR 10 Crore in favour of the Lessor,
- D. The Lessee has furnished a refundable security deposit (the “**Seabed Security Deposit**”) of an amount of INR 1,00,000 per MW (Rupees One Lakh per Mega Watt) of capacity proposed to be developed as part of the Project in favor of the Lessor;
- E. Pursuant to the said preconditions having been fulfilled, the Lessor has agreed to grant the

¹ Insert designation of authorised officer.

² Insert relevant legislation.

³ Insert name of successful bidder.

Lessee an exclusive lease to the Seabed, for undertaking the Survey (*as defined hereinafter*); in the initial period (3 years from the date of this agreement further extendable upto 2 years on case to case basis by Lessor) and later undertaking the installation, testing, commissioning, operation and maintenance of the Project.

- F.** The Parties are now entering into this Seabed lease agreement for the purpose of recording the terms of lease of the Seabed by the Lessor to the Lessee and for execution of the Project subject to and on the terms and conditions set forth hereinafter.
- G.** The Parties agree and acknowledge that the objective of this Seabed lease agreement is to enable and oblige the Lessee to carry out the Survey, construction and operation of the project with a view towards subsequent development of the Project.

THEREFORE, in consideration of the foregoing and the respective **covenants and agreements** set forth in this Seabed lease agreement and other consideration, the receipt, sufficiency and adequacy of which is hereby acknowledged, and intending to be legally bound, the Parties agree as follows:

ARTICLE 1: DEFINITIONS AND INTERPRETATION

1.1 Definitions

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

“Accounting Year” shall mean the financial year commencing from the 1st (first) day of April of any calendar year and ending on the 31st (thirty first) day of March of the next calendar year. It is clarified that first Accounting Year shall be the period commencing from the COD and ending on the 31st (thirty first) day of March of the next calendar year, and the last Accounting Year shall end on the Expiry Date;

“Adjusted Equity” means 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 WPI, and for any Reference Date occurring:

- (i) on or before 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 the Reference Date;
- (ii) from COD and until the 4th (fourth) anniversary thereof, an amount equal to the Adjusted Equity as on COD shall be deemed to be the base (the **“Base Adjusted Equity”**) and the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, revised at the commencement of each month following COD to the extent of variation in WPI occurring between COD and the Reference Date;
- (iii) after the 4th (fourth) anniversary of COD, the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, reduced by 0.24% (zero point two four percent) thereof at the commencement of each month following the 4th (fourth) anniversary of COD and the amount so arrived at shall be revised to the extent of variation in WPI occurring between 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 Expiry Date; provided that no reduction in the Adjusted Equity shall be made for a period equal to the duration, if any, for which this Agreement is extended, but the revision on account of WPI shall continue to be made;

“Agreement” or **“Seabed Lease Agreement”** shall mean this Agreement, its Recitals, and the Schedules hereto and any amendments thereto made in accordance with the provisions contained in this Agreement;

“Applicable Laws” shall mean all laws, brought into force and effect by the Government of India or any State Government, including rules, regulations and notifications made thereunder, and judgments, decrees, injunctions, writs and orders of any court of record, applicable to this Agreement and the exercise, performance and discharge of the respective rights and obligations of the Parties hereunder, as may be in force and effect during the subsistence of this Agreement;

“Applicable Permits” shall mean all clearances, licenses, permits, authorizations, no objection certificates, consents, approvals and exemptions required to be obtained or maintained under

Applicable Laws in connection with undertaking the Survey of the Seabed (including, without limitation, the Stage-II clearances set forth in Annexure A of the National Offshore Wind Energy Policy, 2015 and ‘Letter of Consent’ under the Guidelines for Offshore Wind Power Assessment Studies and Surveys, 2018 issued by National Institute of Wind Energy) and the implementation of the Project during the subsistence of this Agreement;

“**Appointed Date**” shall mean the date on which Financial Close is achieved or an earlier date that the Parties may by mutual consent determine. For the avoidance of doubt, every Condition Precedent shall have been satisfied or waived prior to the Appointed Date and in the event all Conditions Precedent are not satisfied or waived, as the case may be, the Appointed Date shall be deemed to occur only when each and every Condition Precedent is either satisfied or waived, as the case may be;

“**Associate**” or “**Affiliate**” shall mean, in relation to either Party, a person who controls, is controlled by, or is under the common control with such Party (as used in this definition, the expression “**control**” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty percent) of the voting shares of such person or the power to direct the management and policies of such person by operation of law, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person, whether by operation of law or by contract or otherwise);

“**Bank**” shall mean a Scheduled Commercial Bank listed on the website of Reserve Bank of India (RBI);

“**Change in Ownership**” shall mean transfer of the direct and/or indirect legal or beneficial ownership of any shares, or securities convertible into shares that causes the aggregate holding of the Successful Bidder, together with (its/ their) Associates, in the total Equity to decline below 26% (twenty-six percent) thereof from the date of signing of this Agreement until 1 (one) year after the COD:

Provided that any material variation (as compared to the representations made by the Successful Bidder during the bidding process for the purposes of meeting the minimum conditions of eligibility or for evaluation of its bid) in the proportion of the Equity holding of {the Successful Bidder/ any consortium member} to the total Equity, if it occurs prior to completion of a period 1 (one) year after COD, shall constitute a Change in Ownership;

“**Change in Law**” means the occurrence of any of the following events after the date of execution of this Agreement:

- (i) the enactment of any new Applicable Law; or
- (ii) the repeal, modification or re-enactment of any existing Applicable Law; or
- (iii) change in the interpretation or application of any Indian law by a judgment of a court of record which has become final, conclusive and binding as compared to such interpretation or application by a court of record prior to the date of this Agreement; or
- (d) any changes in the rates of any of the Taxes that have a direct effect on the Project.

“**COD**” or “**Commercial Operation Date**” shall have the meaning ascribed to the said term in Clause 16.3;

“**Completion Certificate**” shall mean the certificate issued by the Lessor certifying, that;

- (i) the Lessee has constructed the Project Facilities in accordance with the Construction Requirements; and
- (ii) the Lessee has obtained all Applicable Permits necessary for commercial operations of the Project Facilities;

“Lessor Representative” shall mean such person or persons as may be authorized in writing by the Lessor to act on its behalf under this Agreement and shall include any person or persons having authority to exercise any rights or perform and fulfill any obligations of the Lessor under this Agreement;

“Construction Period” shall mean the period during which the Project Facilities will be constructed by the Lessee, beginning from the Appointed Date and ending on the COD;

“Construction Requirements” shall mean such specifications as set out in **Schedule III**;

“Construction Works” shall mean all works and things required to be constructed by the Lessee as part of the Project Facilities in accordance with this Agreement;

“Contractor” shall mean the person or persons, as the case may be, with whom the Lessee has entered into any of the EPC Contract, the O&M Contract, or any other agreement or a material contract for construction, operation and/ or maintenance of the Project or matters incidental thereto, but does not include a person who has entered into an agreement for providing financial assistance to the Lessee;

“Cure Period” shall mean the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Party responsible for such breach or default and shall:

- (i) commence from the date on which a notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice;
- (ii) not relieve any party from liability to pay Damages or compensation under the provisions of this Agreement; and
- (iii) not in any way be extended by any period of Suspension under this Agreement; provided that if the cure of any breach by the Lessee requires any reasonable action by the Lessee that must be approved by the Lessor hereunder, the applicable Cure Period shall be extended by the period taken by the Lessor to accord their approval;

“Data” shall mean survey or investigation data such as meteorological, bathymetric, ocean current, sonar data, physical oceanographic data, geology or wind profile, surface geological maps and sections, magnetic and gravity measurements and anomaly maps, seismic profiles, sections and structure contour maps, electrical and telluric current survey data, and other information having direct or indirect bearing on the offshore wind energy possibilities in the Seabed and collected by the Lessee or its agents or contractors;

“Debt Due” means the aggregate of the following sums expressed in Indian Rupees outstanding on the Expiry 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 Expiry 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 Expiry Date but excluding (a) any interest, fees or charges that had fallen due 1 (one) year prior to the Expiry Date, (b) any penal interest or charges payable under the Financing Agreements to any Senior Lender, and (c) any pre-payment charges in relation to accelerated repayment of debt except where such charges have arisen due to Lessor Default; and
- (iii) 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 Lessee, it shall for the purposes of this Agreement be deemed to be Debt Due even after such conversion and the principal thereof shall be dealt with as if such conversion had not been undertaken;

“Debt Service” means the sum of all payments on account of principal, interest, financing fees and charges due and payable in an Accounting Year to the Senior Lenders under the Financing Agreements;

“Detailed Project Report” shall have the meaning ascribed to it in Clause 7.4.1;

“Document” or **“Documentation”** shall mean documentation in printed or written form, or in tapes, discs, drawings, computer programmes, writings, reports, photographs, films, cassettes, or expressed in any other written, electronic, audio or visual form;

“Drawings” shall mean the conceptual and detailed designs and drawings, backup technical information required for the Project and all calculations, samples, patterns, models, specifications, standards and other technical information submitted by the Lessee from time to time and reviewed in accordance with the provisions of this Agreement;

“Emergency” means a condition or situation that is likely to endanger the security of the individuals on or about the Project, or which poses an immediate threat of material damage to any of the Project Facilities;

“Encumbrance” shall mean, in relation to the Seabed/ Project, any encumbrances such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations, and shall include any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Seabed/ Project;

“EPC Contract” shall mean the engineering, procurement and construction contract or contracts entered into by the Lessee with Contractor for, *inter alia*, engineering and construction of the Project in accordance with the provisions of this Agreement;

“Equity” shall mean the sum expressed in Indian Rupees representing the paid up equity share capital of the Lessee for meeting the equity component of the Total Project Cost, and shall for the purposes of this Agreement include convertible instruments or other similar forms of capital, which shall compulsorily convert into equity share capital of the Lessee, and any funds advanced by any shareholder of the Lessee for meeting such equity component;

“Expiry Date” shall mean the date on which this Agreement and the Seabed Lease hereunder expires pursuant to the provisions of this Agreement;

“Financing Agreements” shall mean the agreements executed by the Lessee in respect of

financial assistance to be provided by the Senior Lenders by way of loans, guarantees, subscription to non-convertible debentures and other debt instruments including loan agreements, guarantees, notes, debentures, bonds and other debt instruments, security agreements, and other Documents relating to the financing (including refinancing) of the Total Project Cost, and includes amendments or modifications made in accordance with Clause 7.6.2;

“Financial Close” means the fulfillment of all conditions precedent for the initial availability of funds under the Financing Agreements;

“Financial Package” shall mean the financing package indicating the total capital cost of the Project and the means of financing thereof, as approved by the Senior Lenders, and includes Equity, all financial assistance specified in the Financing Agreements, and Subordinated Debt, if any;

“Good Industry Practice” shall mean the exercise of that degree of skill, diligence, prudence and foresight in compliance with the undertakings and obligations under this Agreement which would reasonably and ordinarily be expected of a skilled and an experienced person engaged in the implementation, operation and maintenance or supervision or monitoring thereof or any facilities similar to the Project Facilities;

“Government Instrumentality” shall mean any department, division or sub-division of the Government of India or any State Government and includes any commission, board, authority, autonomous bodies, Public Sector Undertakings (PSUs), agency or municipal and other local authority or statutory body including Panchayat under the control of the Government of India or any State Government, as the case may be, and having jurisdiction over all or any part of the Project, Seabed and/ or the performance of all or any of the services or obligations of the Lessee under or pursuant to this Agreement;

“INR” or “Indian Rupees” or “Rupees” or “Rs.” shall mean Indian Rupees, the lawful currency of the Republic of India.

“Insurance Cover” shall mean the aggregate of the maximum sums insured under the insurances taken out by the Lessee pursuant to Article 22, and includes all insurances required to be taken out by the Lessee but not actually taken, and when used in the context of any act or event, it shall mean the aggregate of the maximum sums insured and payable or deemed to be insured and payable in relation to such act or event;

“Intellectual Property” shall mean all patents, trademarks, service marks, logos, get-up, trade names, internet domain names, rights in designs, blue prints, programmes and manuals, drawings, copyright (including rights in computer software), database rights, semi-conductor, topography rights, utility models, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for registration, and all rights or forms of protection having equivalent or similar effect anywhere in the world;

“Lease Commencement Date” shall mean the date of execution of this Agreement.

“Lease” shall mean the lease in respect of the Seabed granted by the Lessor to the Lessee pursuant to this Agreement;

“Lenders’ Representative” shall mean the person duly authorized by the Senior Lenders to act for and on behalf of the Senior Lenders with regard to matters arising out of or in relation to this Agreement, and includes its successors, assigns and substitutes;

“Material Adverse Effect” shall mean a material adverse effect of any act or event on the ability of either Party to perform any of its obligations under and in accordance with the

provisions of this Agreement and which act or event causes a material financial burden or loss to either Party;

“Material Breach” shall mean a breach by either Party of any of its obligations under this Agreement which has or is likely to have a Material Adverse Effect on the Project and which such Party shall have failed to cure;

“O&M” shall mean the operation and maintenance of the Project and includes all matters connected with or incidental to such operation and maintenance and provision of facilities in accordance with the provisions of this Agreement, set forth in Article 17;

“O&M Contract” shall mean the operation and maintenance contract that may be entered into between the Lessee and the Contractor for performance of all or any of the O&M obligations;

“O&M Expenses” shall mean expenses incurred by or on behalf of the Lessee, as the case may be, for all O&M obligations including (a) cost of salaries and other compensation to employees, (b) cost of materials, supplies, utilities and other services, (c) premia for insurance, (d) all taxes, duties, cess and fees due and payable for O&M, (e) all repair, replacement, reconstruction, reinstatement, improvement and maintenance costs, (f) payments required to be made under the O&M Contract or any other contract in connection with or incidental to O&M, and (g) all other expenditure required to be incurred under Applicable Laws, Applicable Permits or this Agreement;

“Operation Period” shall mean the period commencing from COD and ending on the Expiry Date;

“Permitted Activities” shall have the meaning ascribed to it in Clause 3.1.1;

“Project” shall have the meaning ascribed to it in Recital A;

“Project Agreements” shall mean this Agreement, the Financing Agreements, and any other agreements or material contracts that may be entered into by the Lessee with any person in connection with matters relating to, arising out of or incidental to the Project, but does not include the Substitution Agreement;

“Project Assets” shall mean all physical and other assets relating to and forming part of the Seabed including (a) rights over the Seabed in the form of lease, right of way or otherwise; (b) tangible assets such as civil works and equipment including foundations, electrical systems, communication systems and administrative offices; (c) Project Facilities situated on the Seabed; (d) all rights of the Lessee under the Project Agreements; (e) financial assets, such as receivables, security deposits, etc.; (f) insurance proceeds; (g) Applicable Permits relating to or in respect of the Project; and (h) all design, operation and maintenance documents;

“Project Facilities” shall mean, as the context may require, either all or one or more of the individual facilities comprising the wind power plant and includes all plant, machinery and equipment forming part thereof (including, but not limited to, the wind turbine generators capable of producing power, the transmission facilities for transmission of power onwards to the offshore substation);

“Reference Exchange Rate” means, in respect of any one currency that is to be converted into another currency in accordance with the provisions of this Agreement, the exchange rate as of 12.00 (twelve) noon on the relevant date quoted in Delhi by the State Bank of India, and in the absence of such rate, the average of similar rates quoted in Delhi by the Bank of India and the Bank of Baroda;

“Scheduled Completion Date” shall have the meaning ascribed to the said term in Clause 16.1.1;

“Seabed” shall have the meaning ascribed to it in Recital A;

“Security Deposit” shall have the meaning ascribed to it in Recital C;

“Senior Lenders” shall mean the financial institutions, banks, multilateral lending agencies, trusts, funds and agents or trustees of debenture holders, including their successors and assignees, who have agreed to guarantee or provide finance to the Lessee under any of the Financing Agreements for meeting all or any part of the Total Project Cost and who hold *pari passu* charge on the assets, rights, title and interests of the Lessee;

“Standards and Specifications” shall mean the standards, specifications, terms and conditions which must be strictly adhered to by the Lessee in relation to the implementation of the Project and shall include the following: (i) Construction Requirements; (ii) Safety Requirements, and (iii) any other condition that may be specified by Lessor necessary for the effective implementation of the Project;

“State” shall mean the State of _____ and **“State Government”** means the government of that State;

“Statutory Auditors” shall mean a reputable firm of chartered accountants acting as the statutory auditors of the Lessee under the provisions of the Companies Act, 2013;

“Subordinated Debt” means the aggregate of the following sums expressed in Indian Rupees or in the currency of debt, as the case may be, outstanding as on the Expiry Date:

- (i) the principal amount of debt provided by lenders or the Lessee’s shareholders for meeting the Total Project Cost and subordinated to the financial assistance provided by the Senior Lenders; and
- (ii) all accrued interest on the debt referred to in Sub-clause (i) above but restricted to the lesser of actual interest rate and a rate equal to 5% (five percent) above the Bank Rate in case of loans expressed in Indian Rupees and lesser of the actual interest rate and six-month LIBOR (London Inter Bank Offer Rate) plus 2% (two percent) in case of loans expressed in foreign currency, but does not include any interest that had fallen due one year prior to the Expiry Date;

provided that if all or any part of the Subordinated Debt is convertible into Equity at the option of the lenders and/or the Lessee's shareholders, it shall for the purposes of this Agreement be deemed to be Subordinated Debt even after such conversion and the principal thereof shall be dealt with as if such conversion had not been undertaken;

“Survey” shall have the meaning ascribed to it in Clause 3.1.1;

“Taxes” shall mean any Indian taxes including goods and services tax (GST), excise duties, customs duties, value added tax, sales tax, local taxes, cess and any impost or surcharge of like nature (whether Central, State or local) on the goods, materials, equipment and services incorporated in and forming part of the Project charged, levied or imposed by any Government Instrumentality, but excluding any interest, penalties and other sums in relation thereto imposed on any account whatsoever. For the avoidance of doubt, Taxes shall not include taxes on corporate income;

“Termination” shall mean expiry or termination of this Agreement and the Seabed Lease

hereunder, as the case maybe;

“Termination Notice” shall mean the communication issued in accordance with this Agreement by one Party to the other Party terminating this Agreement;

“Termination Payment” means the amount payable by the Lessor to the Lessee upon Termination and may consist of payments on account of and restricted to the Debt Due and Adjusted Equity, as the case may be, which form part of the Total Project Cost in accordance with the provisions of this Agreement; provided that the amount payable in respect of any Debt Due expressed in foreign currency shall be computed at the Reference Exchange Rate for conversion into the relevant foreign currency as on the date of Termination Payment. For the avoidance of doubt, it is agreed that within a period of 60 (sixty) days from COD, the Lessee shall notify to the Authority, the Total Project Cost as on COD and its disaggregation between Debt Due and Equity, and only the amounts so conveyed shall form the basis of computing Termination Payment, and it is further agreed that in the event such disaggregation is not notified to the Authority, Equity shall be deemed to be the amount arrived at by subtracting Debt Due from Total Project Cost;

“Term” shall have the meaning ascribed to it in Clause 4.1.1.

“Tests” shall mean the tests to determine the completion of the Project in accordance with the provisions of this Agreement;

“Total Project Cost” means the lowest of:

- (i) the capital cost of the Project as set forth in the Financial Package;
- (ii) the actual capital cost of the Project upon achieving COD; and
- (iii) the sum set forth as the cost of construction in the detailed project report finalized in terms of this Agreement:

provided that in the event of Termination, the Total Project Cost shall be deemed to be modified to the extent of variation in WPI or Reference Exchange Rate occurring in respect of Adjusted Equity and Debt Due, as the case may be, in accordance with the provisions of this Agreement;

provided further that in the event WPI increases, on an average, by more than 6% (six percent) per annum for the period between the date hereof and COD, the Parties shall meet, as soon as reasonably practicable, and agree upon revision of the amount hereinbefore specified such that the effect of increase in WPI, in excess of such 6% (six percent), is reflected in the Total Project Cost;

“WPI” means the Wholesale Price Index for all commodities as published by the Ministry of Industry, Government of India and shall include any index which substitutes the WPI, and any reference to WPI shall, unless the context otherwise requires, be construed as a reference to the latest monthly WPI published no later than 30 (thirty) days prior to the date of consideration hereunder.

Terms that are used but not defined herein shall, unless repugnant to their context, have the same meaning ascribed to them in the request for selection document dated 02.02.2024.

1.2 Interpretation

1.2.1 In this agreement, unless the context otherwise requires,

- (a) references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;
- (b) references to laws of India or Indian Law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;
- (c) references to a “person” and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of 2 (two) or more of the above and shall include successors and assigns;
- (d) the table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;
- (e) the words “include” and “including” are to be construed without limitation and shall be deemed to be followed by “without limitation” or “but not limited to” whether or not they are followed by such phrases;
- (f) references to “construction” or “building” include, unless the context otherwise requires, investigation, design, developing, engineering, procurement, delivery, transportation, installation, Processing, fabrication, testing, commissioning and other activities incidental to the construction, and “construct” or “build” shall be construed accordingly;
- (g) references to “development” include, unless the context otherwise requires, construction, renovation, refurbishing, augmentation, upgradation and other activities incidental thereto, and develop shall be construed accordingly;
- (h) any reference to any period of time shall mean a reference to that according to Indian Standard Time;
- (i) any reference to day shall mean a reference to a calendar day;
- (j) references to a “business day” shall be construed as a reference to a day (other than a Sunday) on which banks in New Delhi are generally open for business;
- (k) any reference to month and quarter shall mean a reference to a calendar month and calendar quarter as per the Gregorian calendar;
- (l) references to any date or period shall mean and include such date or period as may be extended pursuant to this Agreement;
- (m) any reference to any period commencing “from” a specified day or date and “till” or “until” a specified day or date shall include both such days or dates; provided that if the last day of any period computed under this Agreement is not a business day, then the period shall run until the end of the next business day;
- (n) the words importing singular shall include plural and *vice versa*;

- (o) references to any gender shall include the other and the neutral gender;
- (p) “lakh” means a hundred thousand (100,000) and “crore” means ten million (10,000,000);
- (q) “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;
- (r) references to 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;
- (s) save and except as otherwise provided in this Agreement, any reference, at any time, to any agreement, deed, instrument, licence or document of any description shall be construed as reference to that agreement, deed, instrument, licence or other document as amended, varied, supplemented, modified or suspended at the time of such reference; provided that this sub-clause shall not operate so as to increase liabilities or obligations of the Lessor hereunder or pursuant hereto in any manner whatsoever;
- (t) any agreement, consent, approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party shall be valid and effective only if it is in writing under the hand of a duly authorised representative of such Party in this behalf and not otherwise;
- (u) the schedules and recitals to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;
- (v) references to Recitals, Articles, Clauses, Sub-clauses or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-clauses and Schedules of or to this Agreement, and references to a paragraph shall, subject to any contrary indication, be construed as a reference to a paragraph of this Agreement or of the Schedule in which such reference appears;
- (w) the damages payable by either Party to the other of them, as set forth in this Agreement, whether on *per diem* basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty (the “Damages”); and
- (x) time shall be of the essence in the performance of the Parties’ respective obligations. If any time period specified herein is extended, such extended time shall also be of the essence.

1.2.2 Unless expressly provided otherwise in this Agreement, any Documentation required to be provided or furnished by the Lessee to the Lessor or any authorized representative of the Lessor shall be provided free of cost and in 3 (three) copies, and if the Lessor or any authorized representative of the Lessor is required to return any such Documentation with their comments and/or approval, they shall be entitled to retain 2 (two) copies thereof.

1.2.3 The rule of construction, if any, that a contract should be interpreted against the parties responsible for the drafting and preparation thereof, shall not apply.

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

1.3 Measurements and arithmetic conventions

All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5 (five) being rounded down.

1.4 Priority of agreement clauses and schedules

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

- (i) this Agreement; and
- (ii) Schedules forming part hereof or referred to herein;

i.e., the Agreement at (i) above shall prevail over the Schedules at (ii) above.

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

- (i) between two or more Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;
- (ii) between the Clauses of this Agreement and the Schedules, the Clauses shall prevail and between Schedules and Annexes the Schedules shall prevail;
- (iii) between any two Schedules, the Schedule relevant to the issue shall prevail; and
- (iv) between any value written in numerals and that in words, the latter shall prevail.

**ARTICLE 2:
SCOPE OF PROJECT**

2.1 Scope of the Project

2.1.1 The scope of the Project (the “**Scope of the Project**”) shall mean and include the following, during the Lease Period:

- (i) conduct geophysical survey, geotechnical survey, oceanographic survey, environmental survey, wind resource assessment, investigation and exploration of the Seabed in accordance with the provisions of this Agreement;
- (ii) design, build, finance, construct, and commission the Project on the Seabed and in accordance with the provisions of this Agreement;
- (iii) O&M in accordance with the provisions of this Agreement; and
- (iv) performance and fulfilment of all other obligations of the Lessee in accordance with the provisions of this Agreement and matters incidental thereto or necessary for the performance of any or all of the obligations of the Lessee under this Agreement.

2.1.2 The Scope of the Project shall also include any and all other activities that are ancillary to the above-mentioned Scope of the Project.

ARTICLE 3: GRANT OF LEASE

3.1 Grant of Lease and Permitted Activities

- 3.1.1 Subject to and in accordance with the terms and conditions set forth in this Agreement, the Applicable Laws and the Applicable Permits, the Lessor hereby grants and authorizes the Lessee to have exclusive access to Seabed during the term set forth in Clause 4.1.2, for the sole and limited purpose (the “**Permitted Activities**”) of conducting, at its own cost and risk, geophysical survey (physical examination of the water column, seabed and subsoil, for spatial studies and preparation of geological maps and geological sections defining the seabed condition of different zones to help in designing the foundations structures for the offshore wind turbines for electrical power generation), geotechnical survey (drilling of bore-holes to source scientific information and other data relating to soil and sub-soil conditions including assessment of its load bearing capacity with an objective to set up an offshore wind project), oceanographic survey, environmental survey, wind resource assessment, investigation and exploration of the Seabed (the “**Survey**”) on the terms and conditions stated in this Agreement during the initial survey period and exclusive rights and authority to design, build, finance, construct/install, test, commission, operate and maintain the Project on the terms and conditions stated in this Agreement and/ or under Applicable Laws. In particular, these rights shall extend to construction of foundation, including piling work, erection of wind turbines, evacuation infrastructure (cables), offshore substations, telephone lines, trenching for cables, underwater electric cables, construction of offshore control room, plants, waterways, and any other incidental structures, equipment and works. The Lessee hereby accepts the Seabed Lease and agrees to implement the Project subject to and in accordance with the terms and conditions set forth herein.
- 3.1.2 Subject to and in accordance with the provisions of this Agreement, Applicable Laws, Applicable Permits and Good Industry Practice, the Seabed Lease hereby granted shall oblige or entitle (as the case may be) the Lessee to:
- (i) perform and fulfill all of the Lessee’s obligations under and in accordance with this Agreement;
 - (ii) design, engineer, finance, procure, construct, install, commission, operate and maintain each of the Project Facilities either itself or through such person as may be selected by it;
 - (iii) bear and pay all costs, expenses and charges in connection with or incidental to the performance of the obligations of the Lessee under this Agreement;
 - (iv) upon commissioning of the Project Facilities, to manage, operate and maintain the same either itself or through such person as may be selected by it, provided that the ultimate obligation and responsibility for the performance of this Agreement shall continue to vest with the Lessee;
 - (v) exclusively hold, possess, and control the Seabed, in accordance with the terms of this Agreement, for the purposes of the due implementation of this Project in accordance with the terms of this Agreement;
 - (vi) borrow or raise money or funding required for the due implementation of the Project and create Encumbrance on the whole or part of the Project Facilities except the Seabed;
 - (vii) neither assign, transfer or sublet or create any Encumbrance on this Agreement, or the

Seabed Lease hereby granted or on the whole or any part of the Project or Seabed nor transfer, lease or part possession thereof; save and except as expressly permitted by this Agreement or the Substitution Agreement; and

- (viii) set all standards and frame and apply all internal policies, guidelines and procedures as may be appropriate for the safety, security, development, management, operations or maintenance of the Project Facilities, subject only to the terms of this Agreement and in accordance with Applicable Laws and Good Industry Practice.

3.1.3 The Lessee shall not undertake any activities outside the Permitted Activities. In particular, the Lessee shall not engage in:

- (i) the exploration, development or production of oil and gas;
- (ii) the exploration and extraction of minerals, materials and other resources from the Seabed, sub soil and super adjacent waters; and

3.1.4 It is expressly agreed that geological or archaeological rights do not form part of the lease rights granted to the Lessee under this Agreement and the Lessee hereby acknowledges that it shall not have any rights or interest in the underlying fossils, antiquities, structures or other remnants or things either of particular geological or archaeological interest and that such rights, interest and property on or under the Seabed shall vest in and belong to the Lessor or the concerned Government Instrumentality. The Lessee shall take all reasonable precautions to prevent its workmen or any other person from removing or damaging such interest or property and shall inform the Lessor forthwith of the discovery thereof and take all necessary reasonable steps to keep any such objects in the same condition in which it was found and comply with such instructions Government Instrumentality may reasonably give for the removal of such property noting that any such removal will be at the Lessor or Government Instrumentality's sole cost and shall not adversely impact the Project. The Lessor reserves the right of ownership over any salvage and equipment /vehicles/ other goods lying on the Seabed in the area covered by the "Seabed lease" under this Agreement, on account of decommissioning and handing over of the seabed by the Lessee to the Lessor, in the event of termination/expiry of this Agreement.

3.2 Handover of Seabed

3.2.1 The Lessor, from the Lease Commencement Date, shall deliver the vacant and peaceful physical possession of the Seabed to the Lessee together with all rights and easements, existing appurtenances and rights and privileges belonging to the said property for full enjoyment thereof with ingress and egress completely free of any Encumbrances, or occupations, obstructions of whatsoever nature.

3.2.2 It is clarified that existing rights of way, easements, privileges, liberties and appurtenances to the Seabed shall not be deemed to be Encumbrances for the purpose of this Clause 3.2. It is further agreed that the Lessee accepts and undertakes to bear any and all risks arising out of the inadequacy or physical condition of the Seabed.

3.3 No Proprietary Interest

3.3.1 Nothing contained herein shall vest or create any proprietary interest in the Seabed or any part thereof in favour of the Lessee or any part thereof or any other person claiming through or under the Lessee. All rights in the Seabed not expressly granted to the Lessee shall continue to be reserved to the Lessor. It is expressly agreed that geological or archaeological rights do not form part of the lease rights granted to the Lessee under this Agreement and the Lessee hereby acknowledges that it shall not have any rights or interest in the underlying fossils, antiquities, structures or other remnants or things either of particular geological or archaeological interest

and that such rights, interest and property on or under the Seabed shall vest in and belong to the Lessor or the concerned Government Instrumentality

- 3.3.2 The Lessee acknowledges, accepts and confirms that the covenant contained herein is an essence of this Agreement and shall duly bind any person to whom the Lessee gives any authorization for use of the Seabed.

ARTICLE 4: TERM

4.1 Term of the Lease

- 4.1.1 The term of this Agreement (“Term”) shall commence from the Lease Commencement Date and shall, unless terminated earlier in terms hereof, expire on _____ [Enter the date as on 35 years from the Lease Commencement Date]. The Term may be extended by the Lessor at its sole discretion having regard to the functional viability and safety of the Project.
- 4.1.2 The Lessee shall complete all the surveys & submit the DPR within 3 years from the date this Agreement, which may further extendable by 2 years on case to case basis by Lessor and commission the Project in subsequent 04 years from the acceptance of DPR (extendable by 1 year on case to case basis by Lessor), which shall be the Scheduled Completion Date (SCD).
- 4.1.3 The maximum time period allowed for commissioning of the Project with applicable penalty shall be limited to the date as on 12 months from the SCD (or extended SCD, if applicable).
- 4.1.4 In case of delay in commissioning of the Project beyond the SCD until the date as per Clause 4.1.3, as part of the penalty, the total PBG amount for the project shall be encashed on per-day basis and proportionate to the capacity that has not been commissioned. For the purpose of calculations of penalty, the full Project capacity shall be considered as 1000 MW. For example, in case commissioning of 100 MW capacity is delayed by 34 days beyond the SCD, then the penalty shall be calculated as: $\text{PBG amount} \times (100/1000) \times (34/365)$. For the purpose of calculation of penalty under this Clause, the 12-month period as per Clause 4.1.3 shall be deemed to comprise 365 days.
- 4.1.5 In case the Lessee is unable to conduct the surveys and submit the DPR or unable to commission the full Project Capacity until the date as per Clause 4.1.2 & Clause 4.1.3, the Lessor at its sole discretion may terminate the Lease; and all clearances to the Lessee shall be withdrawn and the Lessee shall have to deposit the study or survey data to National Institute of Wind Energy/ Ministry of New and Renewable Energy, and the Lessee shall lose all its rights to the data it has generated as part of the study and survey conducted until then.
- 4.1.6 Notwithstanding the foregoing and/ or anything to the contrary in this Agreement, the Parties acknowledge and agree that the Lease granted in pursuance of this Agreement shall, unless terminated earlier in accordance with its terms, be for a term commencing from the Lease Commencement Date till _____ [Enter the date as on 35 years from the Lease Commencement Date].

ARTICLE 5: CONDITIONS PRECEDENT

5.1 Conditions Precedent

5.1.1 Save and except as expressly provided in Article 5, Article 9, Article 12, Article 21, Article 24 and Article 32, or unless the context otherwise requires, the respective rights and obligations of the Parties under this Agreement shall be subject to the satisfaction in full of the Conditions Precedent specified in this Clause 5.1 (the “**Conditions Precedent**”).

5.1.2 Not used.

5.1.3 The Conditions Precedent required to be satisfied by the Lessee prior to the Appointed Date shall be deemed to have been fulfilled when the Lessee shall have:

- (i) completed the Survey and Study of the allocated Seabed and consequently, submitted a Detailed Project Report (DPR) to the Lessor, within a maximum time period of 3 years after signing of this Agreement, which is extendable for a further period of 2 years upon the discretion of the Lessor;
- (ii) executed and procured execution of the Substitution Agreement, if required, as mutually agreed by the Lessee and the Senior Lenders;
- (iii) executed the Financing Agreements and delivered to the Lessor 3 (three) true copies thereof, duly attested by a director of the Lessee;
- (iv) delivered to the Lessor from the Successful Bidder, confirmation in original, of the correctness of their representations and warranties set forth in Sub clauses (xi), (xii) and (xiii) of Clause 10.2 of this Agreement;
- (v) delivered to the Lessor a legal opinion from the legal counsel of the Lessee with respect to the authority of the Lessee to enter into this Agreement and the enforceability of the provisions thereof;

Provided that upon request in writing by the Lessee, the Lessor may, in its discretion waive any of the Conditions Precedent set forth in this Clause 5.1.3. For the avoidance of doubt, the Lessor may, in its sole discretion, grant any waiver hereunder with such conditions as it may deem fit.

5.1.4 Lessee shall make all reasonable endeavours to satisfy the Conditions Precedent within the time stipulated and shall provide the Lessor with such reasonable cooperation as may be required to assist that Party in satisfying the Conditions Precedent for which that Party is responsible.

5.1.5 Lessee shall notify the Lessor in writing at least once a month on the progress made in satisfying the Conditions Precedent. Lessees shall promptly inform the Lessor, in any event, not later than 5 (five) days, when any Condition Precedent for which it is responsible has been satisfied.

5.2 Not Used

5.3 Damages for delay by the Lessee

5.3.1 In the event that (i) the Lessee does not procure fulfillment of any or all of the Conditions Precedent set forth in Clause 5.1.3 within a period of within 24 months from the acceptance of the DPR, and (ii) the delay has not occurred as a result of failure of the Lessor to fulfill the obligations under Clause 5.1.2 or other breach of this Agreement by the Lessor, or due to Force Majeure, the Lessee shall pay to the Lessor, Damages in an amount calculated at the rate of

0.1% (zero point one percent) of the Study/Survey Security Deposit for each day's delay until the fulfillment of such Conditions Precedent, subject to a maximum of the full amount of the Study Survey Deposit.

5.3.2 Upon levy of Damages equivalent to the full amount of the Study/Survey Deposit or non-fulfillment of Conditions Precedent by the Lessee within 24 months from the acceptance of the DPR, whichever is earlier, the Lessor shall be entitled to terminate this Agreement by issuing a 15 (fifteen) days' notice to the Lessee.

5.3.3 On such Termination, the Lessor shall be entitled to encash the **Seabed Security Deposit** of the Lessee in its entirety, as a genuine pre-estimate of and reasonable compensation for loss and damages caused to the Lessor as a result of the Lessee's failure to fulfill the Conditions Precedent and implement the Project in accordance with the terms of this Agreement.

5.4 Non-Achievement of Conditions Precedent

Without prejudice to the provisions of Clause 5.2 and 5.3, and subject to the provisions of Clause 9.3, the Parties expressly agree that in the event the Appointed Date does not occur, for any reason whatsoever, before the 24 months from the acceptance of the DPR or the extended period provided in accordance with this Agreement, all rights, privileges, claims and entitlements of the Lessee under or arising out of this Agreement shall be deemed to be waived by the Lessee, and this Agreement shall be deemed to have been terminated by mutual agreement of the Parties.

**ARTICLE 6:
LEASE RENTALS**

- 6.1 The Lessee shall pay until the COD into the Seabed Allocation Fund an amount of INR _____ (Rupees _____)⁴ on annual basis in advance. The fee is required to be deposited within one month from the letter of demand from the Lessor. The manner of payment as also the manner of appropriating and/ or releasing the amounts lying to the credit of the Seabed Allocation Fund shall be as stipulated in the Request for Selection document dated 02.02.2024.
- 6.2 The Lessee shall pay to the Lessor an annual lease rental of INR 1,00,000 (Rupees One Lakh) per sq km in accordance with and subject to the terms and conditions set forth in the Offshore Wind Energy Lease Rules, 2023. The fee is required to be deposited within one month from the letter of demand from the Lease Issuing Authority.

⁴ Insert total amount for the area under lease herein (calculated based on per square km Quoted Seabed allocation fee by the Lessee as part its response to RfS)

**ARTICLE 7:
LESSEE'S RIGHTS & OBLIGATIONS**

7.1 Lessee's Obligations

- 7.1.1 Subject to and on the terms and conditions of this Agreement, the Lessee shall, at its own cost and expense, procure finance for and undertake the design, engineering, procurement, construction, operation, and maintenance of the Project Facilities and observe, fulfil, comply with and perform all its obligations set out in this Agreement or arising hereunder.
- 7.1.2 The Lessee shall comply with all Applicable Laws and Applicable Permits (including renewals as required) in the performance of its obligations under this Agreement.
- 7.1.3 Subject to the provisions of Clauses 7.1.1 and 7.1.2, the Lessee shall discharge its obligations in accordance with Good Industry Practice and as a reasonable and prudent person.
- 7.1.4 The Lessee shall, at its own cost and expense, in addition to and not in derogation of its obligations elsewhere set out in this agreement:
- (i) not sublet whole or any part of the Seabed;
 - (ii) protect the Seabed from any and all occupations, encroachments or Encumbrances nor place or create nor permit any contractor or other person claiming through or under the Lessee to place or create any Encumbrance or security interest over all or any part of the Seabed, or on any rights of the Lessee therein or under this Agreement;
 - (iii) provide unfettered access into the Seabed at all times to the Lessor and any Government Instrumentality who has the right to inspect the Seabed in accordance with Applicable Laws and their employees and agents for inspection, viewing and exercise of their rights, subject to reasonable prior notice and compliance with necessary safety policies at the site by the Lessor;
 - (iv) publish, in not less than 3 (three) local newspapers and 3 (three) national newspapers, the particulars of the Seabed in respect of which a lease has been granted hereunder;
 - (v) comply with Applicable Law, including environmental laws. In particular, the Lessee shall ensure that no activities undertaken by the Lessee shall:
 - (a) Cause undue harm or damage to the environment (including irreparable environmental damage to flora and fauna);
 - (b) Create hazardous or unsafe conditions;
 - (c) Adversely affect sites, structure or objects of historical, cultural or archaeological significance;
 - (d) Result in marine trash and debris;
 - (e) Cause any entanglement of any structures or devices attached to seafloor with any marine animals;
 - (f) Cause any vessels operated by the Lessee to strike any protected species;
 - (g) Damage or interfere with undersea supply cables and conduits.

- (vi) within 3 (three) months of the Lease Commencement Date, display notices or floaters or signage or indicators at all conspicuous points on the Seabed so as to indicate its boundaries and maintain such notices or floaters or signage or indicators to the reasonable satisfaction of the concerned Government Instrumentalities;
- (vii) act in a manner consistent with the provisions of this Agreement and not cause or fail to do any act, deed or thing, whether intentionally or otherwise, which may in any manner be violative of any of the provisions of this Agreement;
- (viii) not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement;
- (ix) not undertake any activity which has the potential to harm or cause to harm the national security of the country and the environment (both living and non-living);
- (x) not be involved in any unsolicited or unauthorised activity which may be deemed illegal or against national interest, both within the Seabed and in adjoining areas of land and water around the Seabed;
- (xi) use reasonable endeavours to prevent all encroachments and unlawful acts on the Seabed which may prejudice the Lessor's title to them and if any claim is made to the Seabed or to any right profit or easement in or out of or affecting them, to give notice of it to the Lessor and not to admit or acknowledge it in any manner whatsoever;
- (xii) not dig, extract or remove any sandstone beach shingle or other minerals or mineral substances from the Seabed except in so far as is reasonably necessary for undertaking the Permitted Activities;
- (xiii) not to cause waste spoil or destruction on the Seabed except in so far as is reasonably necessary for undertaking the Permitted Activities;
- (xiv) as soon as reasonably practicable following any disturbance of the seabed within the Seabed in undertaking the Permitted Activities, restore the same to a safe and proper condition and in accordance with Applicable Law (including, but not limited to, the Offshore Wind Energy Lease Rules, 2023);
- (xv) share requisite real time surveillance information with Coast Guard, Navy and other identified Government Instrumentalities. The Coast Guard, Navy and other identified Government Instrumentalities may be authorised by the Central Government to fix additional security surveillance systems as deemed required;
- (xvi) ensure that all movements of the personnel or material take place from the designated port and the same shall be cleared by Port Security, Police and Customs. Relevant documents shall be produced for inspection by Indian Coast Guard on patrol in the area;
- (xvii) maintain a public relations unit to interface with and attend to suggestions from the users, Government Instrumentalities, media and other agencies;
- (xviii) execute the Permitted Activities with proper workmanship in accordance with methods and practices as per applicable international standards and abide by all instructions, directions and orders that may be given pursuant to Applicable Laws;
- (xix) not dump any material in the Maritime Zones, Continental Shelf, Territorial Water and Exclusive Economic Zone (with the exception of rock dumped on cables and around

turbine foundations to protect from scour);

- (xx) ensure that no civil vital areas or vital points identified or communicated to the Lessee get affected during the course of undertaking the Permitted Activities;
- (xxi) ensure necessary precautions and measures for navigational safety including providing data for the issue of amendments in charts, obstruction lights, in accordance with Applicable Laws;
- (xxii) abide by all the reasonable instructions and directions that may be given by the Government Instrumentalities pursuant to Applicable Law or in conformity with international standards;
- (xxiii) designate a lease manager who shall be responsible for complying with all terms of this Agreement;
- (xxiv) not share, or permit to be shared, the Data with any third party without prior permission of the Lessor and Integrated Head Quarter (Navy), Ministry of Defence. Provided, however, that this restriction will not apply to sharing the Data with the Lessee's contractors, personnel and agents;
- (xxv) discharge its obligations (and effect and maintain at its own cost, such insurances for such maximum sums as may be necessary or prudent) in accordance with practices, methods, techniques, designs, standards, skills, diligence, efficiency, reliability and prudence which are generally and reasonably expected from a reasonably skilled and experienced person engaged in the same type of undertaking as envisaged under this Agreement and which would be expected to result in the performance of its obligations by the Lessee in accordance with this Agreement, Applicable Laws and Applicable Permits in reliable, safe, economical and efficient manner;
- (xxvi) make, or cause to be made, necessary applications to the relevant Government Instrumentalities with such particulars and details as may be required for obtaining Applicable Permits, and obtain and keep in force and effect such Applicable Permits in conformity with the Applicable Laws.
- (xxvii) procure, as required, the appropriate licences, agreements and permissions for materials, methods, processes and systems used or incorporated into the Project;
- (xxviii) perform and fulfil its obligations under the Financing Agreements;
- (xxix) make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it or its Contractors in connection with the performance of its obligations under this Agreement;
- (xxx) ensure and procure that its Contractors comply with all Applicable Permits and Applicable Laws in the performance by them of any of the Lessee's obligations under this Agreement;
- (xxxi) support, cooperate with and facilitate the Lessor in the implementation and operation of the Project in accordance with the provisions of this Agreement; and
- (xxxiii) transfer the Seabed to the Lessor on the Expiry Date, in accordance with the provisions of this Agreement.

- 7.1.5 The Lessee shall be solely responsible for carrying out the Survey and implementing the Project (including construction, operation and maintenance of the Project) in accordance with Applicable Laws, including all the Applicable Laws relating to protection and safeguard of the environment, laws relating to health and safety aspects, policies and guidelines related thereto, and for obtaining and maintaining the Applicable Permits required for the same. For maintaining all equipment, machinery, infrastructure and wind turbines capable of producing power in good repair and condition, and for insuring all its equipment, personnel and operations, and to indemnifying the Lessor (and/ or its successors and assigns) against any liabilities arising out of default by the Lessee in complying with its obligations hereunder. The Lessor shall not be responsible in any manner whatsoever to either the Lessee or its contractors or agents for any default or failure by the Lessee to comply with Applicable Laws and/ or Applicable Permits.
- 7.1.6 The Lessee shall, no later than 7 (seven) days after the close of each quarter, furnish to the Lessor a report on physical and financial progress of the survey, installation, testing, commissioning, operation and/ or maintenance of the Project, as the case may be (including any health and safety incidents that may have occurred) and shall promptly give such other relevant information as may be required by the Lessor.

For the purpose of this Clause, 'health and safety incidents' shall mean any incident which involves personal injury, threat to life, harm or damage to the environment or property including but not limited to vessel collisions, structural collapses, explosions or fires, releases of flammable liquids and gases, and hazardous escapes of substances.

7.2 Lessee's Rights

- 7.2.1 The Lessee shall, to the extent that the same obstructs or interferes with the smooth operations in the Seabed, have the right to restrict:
- (a) the entry onto the Seabed for such period as notified by the Central Government for the purpose of conducting the Survey, construction or operation and maintenance of the offshore wind farm;
 - (b) the navigation of boats, ferries and ships obstructing the conduct of the Survey;
 - (c) the anchoring or use of fixed fishing gears within the Seabed;
 - (d) activities such as scuba diving, windsurfing, kiting and the like, within the Seabed.
 - (e) movement within 50 m (fifty meters) distance from the wind turbine foundation and 500 m (five hundred meters) distance from the sub-station.
- 7.2.2 Provided, however, that, in the interest of the common public, the Lessee shall permit activities such as fishing for the purpose of livelihood and other activities that may co-exist with the Permitted Activities if they do not affect the normal working of the Permitted Activities. The Lessee shall organize its activities such that they do not unreasonably affect commercial fishing.
- 7.2.3 Provided also that Defense and Security agency of the Government of India shall have unrestricted right of access to ensure the security of the maritime zone and to enforce the law.

7.3 Conduct of Survey

- 7.3.1 The Lessee shall undertake the Survey in accordance with Applicable Law (including, but not limited to the Offshore Wind Energy Lease Rules, 2023, the National Offshore Wind Energy Policy, 2015 and the Guidelines for Offshore Wind Power Assessment Studies and Surveys, 2018 issued by National Institute of Wind Energy), the Applicable Permits, furnished in response to the request for selection document dated 02.02.2024, and this Agreement.
- 7.3.2 In conducting the Survey, the Lessee shall comply with the following milestones within such timeframe as may be notified by the Lessee to the Lessor within 1 (one) month from the Lease Commencement Date, failing which the Lessee shall, unless such failure has occurred due to Force Majeure or for reasons solely attributable to the Lessor, pay damages to the Lessor in a sum calculated at the rate of 0.1% (zero point one percent) of the Security Deposit for delay of each day until the respective milestone is achieved:
- (a) Commencement of Survey (as evidenced by issuance of requisite purchase orders, copies of which are to be furnished to the Lessor);
 - (b) Commencement of environmental and social impact assessment in accordance with Applicable Law;
 - (c) Completion of environmental and social impact assessment in accordance with Applicable Law;
 - (d) Furnishing of environmental and social impact assessment report(s) to the Lessor;
 - (e) Completion of Survey; and
 - (f) Furnishing Survey report to the Lessor.
- 7.3.3 Not Used.
- 7.3.4 The Lessor shall have the right to inspect the Seabed at any time as the Lessor may deem fit, and make a report of such inspection stating in reasonable detail the defects or deficiencies, if any, with particular reference to the obligations of the Lessee hereunder. It shall send a copy of the report to the Lessee and the Lessee shall, within 7 (seven) days of such inspection and upon receipt thereof, rectify and remedy the defects or deficiencies, if any, stated in the report. Such inspection or submission of a report by the Lessor shall not relieve or absolve the Lessee of its obligations and liabilities hereunder in any manner whatsoever.
- 7.3.5 The Lessee shall ensure that the antecedents of all foreign nationals engaged by it are verified by concerned security agencies of the Central Government.

7.4 Detailed Project Report

- 7.4.1 Within the period as mentioned in 4.1.2 and basis an analysis of the Data collected thereby, the Lessee shall prepare and submit to the Lessor a report setting out the results of the Survey, and a detailed project report (the “**Detailed Project Report**” or “**DPR**”) setting out:
- (a) Detailed project site/ location information, including the actual area proposed to be utilised by the Lessee within the Seabed (if at variance with the particulars of the Seabed as set out in this Agreement) and also the cable routes falling outside the Seabed (for the transmission system to deliver the power at the offshore substation). In this regard, it is clarified that the Lessee shall undertake the micro siting such that no turbine shall be erected 500 m from the nearest site boundary;

- (b) The actual capacity proposed to be developed as part of the Project based on the Survey.
- (c) The approach to development of the Project, i.e., the Project implementation plan (including resource planning and wind turbine micro-siting plan), tentative activities to be taken up and the timelines/ timeframe for commissioning the Project, as also the various development milestones comprised therein (if at variance with the bidding documents);
- (d) The anticipated cost of construction (including for special foundations, special ships, etc.) and a breakdown thereof;
- (e) Particulars of the wind resource (outcome and results of the Survey) and the annual energy generation estimates along with assumptions used;
- (f) Key components of the Project (including wind turbines, substation, power cables and their routes, etc.) along with detailed technical specifications;
- (g) Particulars of Applicable Permits;
- (h) Environmental policy specific to offshore infrastructure as per international practices;
- (i) Health and safety policy specific to offshore infrastructure as per international practices;
- (j) Quality assurance policy specific to offshore infrastructure as per international practices; and
- (k) a decommissioning and site restoration programme setting out an account of how the installations shall be removed and a proposed time schedule for doing so.

7.4.2 The Detailed Project Report is subject to acceptance of the Lessor.

7.4.3 The Lessor shall furnish to the Lessee its comments on the Detailed Project Report within a period of 21 (twenty-one) days, failing which the Lessor shall be deemed to have no comments thereon and DPR shall be deemed accepted. For the avoidance of doubt, it is expressly agreed that comments of the Lessor hereunder shall be limited to national security and public interest perspective. It is agreed that the Lessor or National Institute of Wind Energy shall not be liable in any manner on account of the furnishing of comments or otherwise, and that such comments (or lack thereof) shall not in any manner absolve the Lessee from any liability or obligation under Applicable Laws or this Agreement.

7.4.4 Pursuant to the comments, if any, received, the Lessee shall revise and resubmit the Detailed Project Report no later than 21 (twenty-one) days from the date of receipt of the comments, whereupon the review process as outlined above shall be repeated until there are no comments on the Detailed Project Report.

7.4.5 Not used.

7.4.6 Subject to technical and geographical constraints, the Lessee shall not be held liable for reducing the installed capacity indicated in the bid documents, or a variation in the Seabed with the particulars of the Seabed as set out in this Agreement.

7.4.7 Upon the acceptance of the Detailed Project Report (DPR) the Lessee shall start the implementation of the Project, which shall include installation, testing, commissioning,

operation and maintenance of the Project. "Acceptance" of DPR here refers to approval of the Report by the Lessor, in line with the checklist prepared by M/s National Institute of Wind Energy, comprising all the details required to be included in the DPR. The DPR will be subject to approval in all cases, i.e. even when the potential capacity as assessed by the Lessor for the Seabed is same, less than or more than the actual proposed capacity as assessed in the DPR.

- 7.4.8 Upon finalization & acceptance of DPR, the Lessee shall furnish in favour of the Lessor a Performance Bank Guarantee (PBG) for an amount @ INR 55.5 Lakhs per MW of capacity proposed to be developed as part of the Project based on the Survey (and as mentioned in the DPR) in form of an irrevocable and unconditional guarantee from any of the Scheduled Commercial Banks as listed on the website of Reserve Bank of India (RBI) and amended as on the date of issuance of bank guarantee in the form set forth in **Schedule II**, with a validity period up to (& including) the date as on 1 year after commissioning of the project. 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). The security deposit submitted pursuant to Clause 7.4.5 shall be returned to the Lessee subsequent to finalization of DPR and submission of PBG as per this clause, after taking into account any applicable penalties as per this Agreement.

7.5 Implementation of Project

- 7.5.1 The Lessee shall install, test, commission, operate and maintain the Project in accordance with this Agreement, and comply with the monitoring/ reporting obligations specified thereunder.
- 7.5.2 The Lessee shall take all reasonable measure to ensure the safety and security of the Project, including all the equipment and other plant and machinery (and, in particular, ensure the security of the Project through employment of trained security personnel, at its own cost and expense, and ensure that the antecedents of all foreign nationals engaged by it are verified by concerned security agencies of the Central Government). Security of the wind farm is to be ensured through physical and electronic means. The security measures instituted will be intimated to the Indian Navy through the Integrated Head Quarters (Navy).
- 7.5.3 The Lessor shall have the right to inspect the Seabed at any time as the Lessor may deem fit, and make a report of such inspection stating in reasonable detail the defects or deficiencies, if any, with particular reference to the obligations of the Lessee hereunder. It shall send a copy of the report to the Lessee and the Lessee shall, within 7 (seven) days of such inspection and upon receipt thereof, rectify and remedy the defects or deficiencies, if any, stated in the report. Such inspection or submission of a report by the Lessor shall not relieve or absolve the Lessee of its obligations and liabilities hereunder in any manner whatsoever

7.6 Obligation relating to Project Agreements

- 7.6.1 It is expressly agreed that the Lessee shall, at all times, be responsible and liable for all its obligations under this Agreement notwithstanding anything contained in the Project Agreements, and no default under any Project Agreement shall excuse the Lessee from its obligations or liability hereunder.
- 7.6.2 The Lessee shall not make any addition, replacement or amendments to any of the Financing Agreements without the prior written consent of the Lessor if such addition, replacement or amendment has, or may have, the effect of imposing or increasing any financial liability or obligation on the Lessor, and in the event that any replacement or amendment is made without such consent, the Lessee shall not enforce such replacement or amendment nor permit enforcement thereof against the Lessor.

7.7 Obligations relating to Change in Ownership

7.7.1 The Lessee shall not undertake or permit any Change in Ownership, except with the prior approval of the Lessor.

7.7.2 Notwithstanding anything to the contrary contained in this Agreement, the Lessee agrees and acknowledges that:

- (i) all acquisitions of Equity by an acquirer, either by himself or with any person acting in concert, directly or indirectly, including by transfer of the direct or indirect legal or beneficial ownership or control of any Equity, in aggregate of not less than 15% (fifteen percent) of the total Equity of the Lessee; or
- (ii) acquisition of any control directly or indirectly of the board of directors of the Lessee by any person either by himself or together with any person or persons acting in concert with him;

shall constitute a Change in Ownership requiring prior approval of the Lessor from national security and public interest perspective, the decision of the Lessor in this behalf being final, conclusive and binding on the Lessee, and undertakes that it shall not give effect to any such acquisition of Equity or control of the board of directors of the Lessee without such prior approval of the Lessor. For the avoidance of doubt, it is expressly agreed that approval of the Lessor hereunder shall be limited to national security and public interest perspective, and the Lessor shall endeavour to convey its decision thereon expeditiously. It is also agreed that the Lessor shall not be liable in any manner on account of grant or otherwise of such approval and that such approval or denial thereof shall not in any manner absolve the Lessee from any liability or obligation under this Agreement.

For the purposes of this Clause 7.7.2:

- (i) the expression “**acquirer**”, “**control**” and “**person acting in concert**” shall have the meaning ascribed thereto in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeover) Regulations, 2011 or any statutory re-enactment thereof as in force as on the date of acquisition of Equity, or the control of the board of directors, as the case may be, of the Lessee;
- (ii) the indirect transfer or control of legal or beneficial ownership of Equity shall mean transfer of the direct or indirect beneficial ownership or control of any company or companies whether in India or abroad which results in the acquirer acquiring control over the shares or voting rights of shares of the Lessee; and
- (iii) power to appoint, whether by contract or by virtue of control or acquisition of shares of any company holding directly or through one or more companies (whether situated in India or abroad) the Equity of the Lessee, not less than half of the directors on the board of directors of the Lessee or of any company, directly or indirectly whether situated in India or abroad, having ultimate control of not less than 15% (fifteen percent) of the Equity of the Lessee shall constitute acquisition of control, directly or indirectly, of the board of directors of the Lessee.

7.8 Employment of foreign nationals

The Lessee acknowledges, agrees and undertakes that employment of foreign personnel by the Lessee and/ or its Contractor and their sub-contractors shall be subject to grant of requisite regulation permits and approvals including employment/ residential visas and work permits, if

any required, and the obligation to apply for and obtain the same shall and will always be of the Lessee and, notwithstanding anything to the contrary contained in this Agreement, refusal of or inability to obtain any such permits and approvals by the Lessee or any of its Contractor or sub-contractors shall not constitute Force Majeure, and shall not in any manner excuse the Lessee from the performance and discharge of its obligations and liabilities under this Agreement.

7.9 Employment of trained personnel

The Lessee shall ensure that the personnel engaged by it in the performance of its obligations under this Agreement are at all times properly trained for their respective functions.

7.10 Sole purpose of the Lessee

The Lessee having been set up for the sole purpose of exercising the rights and observing and performing its obligations and liabilities under this Agreement, the Lessee shall not, except with the previous written consent of the Lessor, be or become directly or indirectly engaged, concerned or interested in any business other than as envisaged herein.

7.11 Branding of Project

The Project or any part thereof may be branded in any manner to advertise, display or reflect the name or identity of the Lessee or its shareholders. The Lessee shall be entitled to use the name or entity of the Project to advertise or display its own identity, brand equity or business interests, including those of its shareholders.

**ARTICLE 8:
OBLIGATIONS OF THE LESSOR**

8.1 Obligations of the Lessor

- 8.1.1 The Lessor shall, at its own cost and expenses undertake, comply with and perform all its obligations set out in this Agreement or arising hereunder.
- 8.1.2 The Lessor agrees to provide support to the Lessee and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and the Applicable Laws, the following:
- (i) provide reasonable support and assistance to the Lessee in procuring Applicable Permits;
 - (ii) not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement; and
 - (iii) support, cooperate with and facilitate the Lessee in the implementation and operation of the Project in accordance with the provisions of this Agreement.

**ARTICLE 9:
SECURITY DEPOSIT AND PERFORMANCE BANK GUARANTEE**

9.1 Appropriation of Security Deposit

- 9.1.1 The Lessee has, simultaneous with the execution of this Agreement, furnished to the Lessor, for study and survey, a refundable security deposit of INR 10 Crore.
- 9.1.2 The Lessee has, simultaneous with the execution of this Agreement, furnished to the Lessor, for grant of Lease, a refundable security deposit of Rs_____ (total amount calculated based on Rs 1 Lakh per MW capacity proposed to be developed) in accordance of Offshore Wind Energy Lease Rules, 2023.
- 9.1.3 The Lessee has to furnish to the Lessor a Performance Security in the form of Performance Bank Guarantee (PBG) of value Rs. _____ [Enter amount calculated @ INR 55.5 Lakhs per MW of capacity proposed to be developed as part of the Project based on the Survey (and as mentioned in the DPR)].
- 9.1.4 The applicant shall pay a yearly lease rental at a rate of INR 1 Lakh per square kilometre per year in advance for the entire Term of this Agreement, calculated for each square kilometre or part thereof covered by the Lease. The fee is required to be deposited within one month from the letter of demand from the Lessor.
- 9.1.5 Upon occurrence of a default on the part of the Lessee, the Lessor shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the relevant amounts from the Security Deposit/ PBG as damages for such default. Upon such encashment and appropriation from the Security Deposit/ PBG, the Lessee shall, within 30 (thirty) days thereof, replenish the Security Deposit/ PBG, in case of partial appropriation, to its original level, and in case of appropriation of the entire Security Deposit/ PBG, provide a fresh Security Deposit/ PBG. In case the damages are higher than the Security Deposit/ PBG, the Lessee shall also be liable to pay the same.
- 9.1.6 In the event of termination of this Agreement on account of an event of default on the part of the Lessee, the Lessor shall be entitled to forfeit and appropriate the Security Deposit/ PBG.
- 9.1.7 All the security deposit/PBG instruments shall be submitted in the form of Bank Guarantees issued by a Scheduled Commercial Bank, in the format as per Schedule II. 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).

9.2 Validity of Security Deposit

The Security Deposit as mentioned in 9.1.1 shall remain in force and effect until the security deposit for construction and operation is furnished in terms of Clause 9.1.3, whereupon it shall, subject to the terms of this Agreement, be released forthwith.

The Security Deposit as mentioned in 9.1.2 shall remain in force and effect until the completion of decommissioning whereupon it shall, subject to the terms of this Seabed lease agreement, be released forthwith upon issuance of decommissioning certificate by NIWE.

9.3 Validity of Performance Security/ PBG

The PBG shall be released after 1 year of commissioning subject to the terms of this Agreement, provided, however, that the PBG shall not be released if the Lessee is in breach of the provisions

of this Agreement.

The renewal of the PBG, as and when required, is to be done by the Lessee at least 1 (one) month before the date of expiry of the existing PBG, failing which the Lessor shall be entitled to invoke the PBG. The charges for providing the Performance Security shall be borne by the Lessee. Provided that if the Agreement is terminated due to any event other than a Lessee Event of Default, the PBG if subsisting as on the Expiry Date shall, subject to rights of the Lessor to receive amounts at prevailing time, if any, due from Lessee under this Agreement, be duly discharged and released to the Lessee within 30 (thirty) days from the Expiry Date.

9.4 Appropriation of Performance Security/ PBG

Upon occurrence of a Lessee Event of Default or failure to meet any Condition Precedent, the Lessor shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the relevant amounts from the PBG as damages for such Lessee Event of Default or failure to meet any Condition Precedent. Upon such encashment and appropriation from the PBG the Lessee shall, within 30 (thirty) days thereof, replenish the PBG, in case of partial appropriation, to its original level, and in case of appropriation of the entire PBG, provide a fresh PBG, as the case may be, and the Lessee shall, within the time so granted, replenish or furnish fresh PBG as aforesaid failing which the Lessor shall be entitled to terminate this Agreement in accordance with Article 27. Upon replenishment or furnishing of a fresh PBG, as the case may be, the Lessee shall be entitled to an additional Cure Period of 90 (ninety) days for remedying the Lessee Event of Default, and in the event of the Lessee not curing its default within such Cure Period, the Lessor shall be entitled to encash and appropriate such PBG damages, and to terminate this Agreement in accordance with Article 27.

9.5 Decision of the Lessor

The decision of the Lessor as to any breach/ delay having been committed, liability accrued or loss or damage caused or suffered shall be conclusive, absolute and binding on the Bank providing the PBG. The Lessee specifically confirms and agrees and shall ensure that the Bank providing the PBG agrees and confirms that no proof of any amount of liability accrued or loss or damages caused or suffered by the Lessor under this Agreement is required to be provided in connection with any demand made by the Lessor to recover such compensation through encashment of the PBG under this Agreement and that no Document or any action shall be required other than the Lessor's written demand in this behalf.

**ARTICLE 10:
REPRESENTATIONS AND WARRANTIES**

10.1 Representations and Warranties

Each Party hereby represents and warrants that:

- (a) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement;
- (b) it has taken all necessary actions under the Applicable Laws to authorise the execution, delivery and performance of this Agreement;
- (c) it has the financial standing and capacity to perform its obligations under this Agreement;
- (d) this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- (e) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on its ability to perform its obligations under this Agreement;
- (f) it has complied with Applicable Laws in all material respects.

10.2 Representations and warranties of the Lessee

The Lessee represents and warrants to the Lessor that:

- (i) it is duly organized and validly existing under the laws of India, and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- (ii) it has taken all necessary corporate and other actions under Applicable Laws to authorize the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
- (iii) it has the financial standing and capacity to undertake the Project in accordance with the terms of this Agreement;
- (iv) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement will be legally valid, binding and enforceable obligations against it in accordance with the terms hereof;
- (v) it is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising thereunder including any obligation, liability or responsibility hereunder;
- (vi) the information furnished in the Application and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement;

- (vii) the execution, delivery and performance of this Agreement will not conflict with, result in the breach or constitute a default under, or accelerate performance required by any of the terms of its Memorandum and Articles of Association or any Applicable Laws, or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
- (viii) there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;
- (ix) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Instrumentality which may result in any Material Adverse Effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;
- (x) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a Material Adverse Effect;
- (xi) it shall at no time undertake or permit any Change in Ownership except in accordance with the provisions of Clause 7.7;
- (xii) all its rights and interests in the Seabed shall pass to and vest in the Lessor on the Expiry Date, free and clear of all claims and Encumbrances, without any further act or deed on its part or that of the Lessor, and that none of the Project Assets including the Seabed shall be acquired by it, subject to any agreement under which a security interest or other Encumbrance is retained by any person, save and except as expressly provided in this Agreement;
- (xiii) no representation or warranty by it contained herein or in any other Document furnished by it to the Lessor or to any Government Instrumentality in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;
- (xiv) no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the Seabed or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Lessor in connection therewith;
- (xv) all information provided by the Successful Bidder for the purpose of its selection or otherwise, is to the best of its knowledge and belief, true and accurate in all material respects;
- (xvi) agrees that the execution, delivery and performance by it of this Agreement and all other agreements, contracts, Documents and writings relating to this Agreement constitute private and commercial acts and not public or government acts; and
- (xvii) as of date, as regards it there is no applicable bankruptcy, insolvency, reorganisation, moratorium or similar laws affecting creditors' rights generally.

10.3 Representations and Warranties of the Lessor

The Lessor represents and warrants to the Lessee that:

- (a) the Lessor has good and valid right to the Seabed, and has power and authority to grant a lease in respect thereto to the Lessee;
- (b) the Lessor has full powers to hold, dispose of and deal with the Seabed consistent and interlaid with the provisions of this Agreement; and
- (c) the Lessee shall, subject to complying with the terms and conditions of this Agreement, remain in peaceful possession and enjoyment of the whole Seabed during the term set forth in Clause 4.1.2.
- (d) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement;
- (e) it has taken all necessary actions under the Applicable Laws to authorize the execution, delivery and performance of this Agreement;
- (f) it has the financial standing and capacity to perform its obligation under this Agreement;
- (g) this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- (h) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any Material Adverse Effect on the Lessor's ability to perform its obligations under this Agreement; and
- (i) it has complied with Applicable Laws in all material respects.

10.4 Disclosure

In the event that any occurrence or circumstance comes to the attention of either Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Party of the same. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any right, remedy or obligation of either Party under this Agreement.

ARTICLE 11: DISCLAIMER

11.1 Disclaimer

- 11.1.1 The Lessee acknowledges that prior to the execution of this Agreement, the Lessee has, after a complete and careful examination, made an independent evaluation of the Seabed, Standards and Specifications, local conditions, and all information provided by the Lessor or obtained, procured or gathered otherwise, and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder. The Lessor makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/ or completeness of any assessment, assumptions, statement or information provided by it and the Lessee confirms that it shall have no claim whatsoever against the Lessor in this regard.
- 11.1.2 The Lessee acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in Clause 11.1.1 above and hereby acknowledges and agrees that the Lessor shall not be liable for the same in any manner whatsoever to the Lessee, and its Associates or any person claiming through or under any of them.
- 11.1.3 The Parties agree that any mistake or error in or relating to any of the matters set forth in Clause 11.1.1 above shall not vitiate this Agreement, or render it voidable.
- 11.1.4 In the event that either Party becomes aware of any mistake or error relating to any of the matters set forth in Clause 11.1.1 above, that Party shall immediately notify the other Party, specifying the mistake or error; provided, however, that a failure on part of the Lessor to give any notice pursuant to this Clause 11.1.4 shall not prejudice the disclaimer of the Lessor contained in Clause 11.1.1 and shall not in any manner shift to the Lessor any risks assumed by the Lessee pursuant to this Agreement.
- 11.1.5 Except as otherwise provided in this Agreement, all risks relating to the Project shall be borne by the Lessee and the Lessor shall not be liable in any manner for such risks or the consequences thereof.

**ARTICLE 12:
SEABED**

12.1 Rights of the Lessee

- 12.1.1 Pursuant to grant of lease of the Seabed in accordance with this Agreement, the Lessee shall have the right to regulate the entry into and use of the Seabed in accordance with this Agreement.
- 12.1.2 The Lessee accepts the Seabed on an “as is where is” basis and undertakes to bear all risk arising out of the inadequacy or physical condition of the Seabed and confirms having inspected the Seabed and:
- (i) satisfied itself of the Seabed conditions and the nature of the design, work and material necessary for the performance of its obligations under this Agreement;
 - (ii) satisfied itself as to the means of communication with, access to and accommodation on the Seabed that it may require or as may otherwise be necessary for the performance of its obligations under this Agreement;
 - (iii) obtained for itself all necessary information as to the risks, contingencies and all other circumstances which may influence or affect the Lessee and its rights and obligations under or pursuant to this Agreement;
 - (iv) after a complete and careful examination, made an independent evaluation of the Seabed as a whole and has determined the nature and extent of the difficulties, upgradations, inputs, costs, time and resources, risks and hazards that are likely to arise or may be faced by it in the course of the performance of its obligations under this Agreement. The Lessee further acknowledges that it shall have no recourse to the Lessor if it is, at a later date, found that the Seabed is deficient in any manner that prevents the discharge of Lessee’s obligations under this Agreement (“**Deficiency**”). If a Deficiency is found, the Lessee hereby acknowledges that it shall, at its own cost and expense take all appropriate measures to remedy the same. It is hereby clarified that the Lessor shall not bear any expenses in relation to any Deficiency.
- 12.1.3 The Lessee acknowledges that it shall have no recourse against the Lessor in the event of any mistake made or misapprehension harboured by the Lessee in relation to any of the foregoing provisions in this Clause and the Lessor hereby expressly disclaims any liability in respect thereof.
- 12.1.4 The Parties hereto agree that on or prior to the Appointed Date, the Lessor shall have granted vacant possession of the entire Seabed to the Lessee.

**ARTICLE 13:
UTILITIES**

13.1 Shifting of obstructing utilities

The Lessee shall, subject to Applicable Laws and with assistance of the Lessor, undertake shifting of any utility including electric lines, water pipes and telephone cables, to an appropriate location or alignment within or outside the Seabed if and only if such utility causes or shall cause a Material Adverse Effect on the construction and O&M of the Project. The cost of such shifting shall be borne by the Lessee, if the Lessor so directs.

ARTICLE 14: DEVELOPMENT OF THE PROJECT

14.1 Obligations prior to commencement of construction

Prior to commencement of Construction Works, the Lessee shall:

- (i) have requisite organization and designate and appoint suitable officers/ representatives as it may deem appropriate to supervise the Construction Works of Project, to interact with the Lessor and to be responsible for all necessary exchange of information required pursuant to this Agreement;
- (ii) undertake, do and perform all such acts, deeds and things as may be necessary or required before commencement of construction under and in accordance with this Agreement, the Applicable Laws and Applicable Permits; and
- (iii) make its own arrangements for procuring materials needed for the Construction Works in accordance with the Applicable Laws and Applicable Permits.

14.2 Construction of Project Facilities

- 14.2.1 The Lessee shall construct the Project Facilities in line with provisions of this Agreement, Applicable Law, Applicable Permits, Good Industry Practice, Construction Requirements, and the detailed project report finalised in terms of this Agreement.
- 14.2.2 The Lessee may undertake Construction Works by itself or through a Contractor possessing requisite technical, financial and managerial expertise/ capability; but in either case, the Lessee shall be solely responsible to meet the Construction Requirements.
- 14.2.3 The Lessee shall complete the construction and achieve the COD in a manner that is safe and reliable for performance of the O&M during the Operation Period, subject to normal wear and tear and Force Majeure, and free from all defects in design and workmanship.

14.3 Tests

For the purposes of determining that Construction Works are being undertaken in accordance with the requirements, the Lessee shall with due diligence carry out all necessary and periodical Tests with advance intimation to the Lessor who either in person or through his representative may choose to be present during the conduct of such Tests. The Lessee shall maintain proper record of such Tests and the remedial measures taken to cure the defects or deficiencies, if any, indicated by the Test results and keep the Lessor informed.

14.4 Suspension

The Lessor, may, by written notice, require the Lessee to suspend forthwith the whole or any part of the Construction Works, if in its reasonable opinion the same is being carried on in a manner that is not in conformity with the Construction Requirements, in case the same is not rectified within 7 (seven) days of such notice.

**ARTICLE 15:
MONITORING OF CONSTRUCTION**

15.1 Quarterly progress reports

During the Construction Period, the Lessee shall, no later than 7 (seven) days after the close of each quarter, furnish to the Lessor a report on progress of the Construction Works and shall promptly give such other relevant information as may be required by the Lessor.

15.2 Inspection

15.2.1 During the Construction Period, the Lessor may inspect the Construction Works at any time in a month and make a report of such inspection stating in reasonable detail the defects or deficiencies, if any, with particular reference to the Scope of the Project and Standards and Specifications. It shall send a copy of the report to the Lessee within 7 (seven) days of such inspection and upon receipt thereof, the Lessee shall rectify and remedy the defects or deficiencies, if any, stated in the report. Such inspection or submission of the report by the Lessor shall not relieve or absolve the Lessee of its obligations and liabilities hereunder in any manner whatsoever.

15.2.2 The Construction Works shall be monitored by such autonomous organizations as may be appointed by the Ministry of New and Renewable Energy, Government of India. The costs of such visits will be borne by the visiting agency, unless the visit is required on account of any Event of Default, or breach of the Agreement, or as a result of the Lessee's actions contravening with the Applicable Laws and Permits.

15.3 Livestream of Construction Work

During the Construction Period, the Lessee shall provide to the Lessor for every calendar quarter, SCADA access of the site containing livestream of the construction work, which will be compiled into a 3 (three) hour compact disc or digital video disc, as the case may be, covering the status and progress of Construction Works in that quarter. The first such recording shall be provided to the Lessor within 7 (seven) days of Appointed Date and thereafter, no later than 15 (fifteen) days after the close of each quarter.

ARTICLE 16: ENTRY INTO COMMERCIAL SERVICE

16.1 Delay in Construction

- 16.1.1 _____⁵ shall be the scheduled date for completion of construction of the Project Facilities (the “**Scheduled Completion Date**”).
- 16.1.2 In the event that the construction of the Project Facilities is not completed by the Scheduled Completion Date, unless such failure has occurred due to Force Majeure or for reasons solely attributable to the Lessor, the total PBG amount for the project shall be encashed on per-day basis and proportionate to the capacity that has not been commissioned.
- 16.1.3 In the event that construction of the Project Facilities is not completed within 365 (three hundred and sixty five) days from the Scheduled Completion Date (or such longer period as the Lessor at its sole discretion may grant), unless the delay is on account of reasons solely attributable to the Lessor or due to Force Majeure, the Lessor shall be entitled to forthwith terminate this Agreement and appropriate the PBG.

16.2 Tests

- 16.2.1 At least 60 (sixty) days prior to the likely commissioning of the Project Facilities, the Lessee shall notify the Lessor and M/s Grid Controller of India Limited of its intent to subject the Project Facilities to Tests. The date and time of each of the Tests shall be determined by the Lessor in consultation with the Lessee. The Lessee shall provide such assistance as the Lessor may reasonably require for conducting the Tests. In the event of the Lessee and the Lessor failing to mutually agree on the dates for conducting the Tests, the Lessee shall fix the dates by not less than 10 (ten) days’ notice to the Lessor.
- 16.2.2 All Tests shall be conducted in accordance with applicable standards and in line with the Indian Electricity Grid Code. The Lessor or an agency as authorized by it shall observe, monitor and review the results of the Tests to determine compliance of the Project Facilities with Standards and Specifications and if it is reasonably anticipated or determined by the Lessor during the course of any Test that the performance of the Project Facilities or any part thereof does not meet the Standards and Specifications, it shall have the right to suspend or delay such Test and require the Lessee to remedy and rectify the defects or deficiencies. Upon completion of each Test, the Lessor and/or any agency as authorized by the Lessor, shall provide to the Lessee copies of all Test data including detailed Test results. For the avoidance of doubt, it is expressly agreed that the Lessor may require the Lessee to carry out or cause to be carried out additional Tests, in accordance with Good Industry Practice, for determining the compliance of the Project Facilities with Standards and Specifications.

16.3 Commercial Operation Date

The Project Facilities shall be deemed to have been commissioned on the date of issuance of commissioning certificate (“**Commercial Operation Date**” or “**COD**”) by the Lessor as per the Indian Electricity Grid Code and the National Offshore Wind Energy Policy, 2015. The Project Facilities shall enter into commercial service on COD whereupon the Lessee shall operate and maintain the Project Facilities in accordance with the provisions of this Agreement.

16.4 Part Commissioning

- 16.4.1 The part commissioning of the Project shall be accepted by the Lessor subject to the following

⁵ Insert scheduled completion date as per finalised detailed project report.

conditions:

- (i) The minimum capacity for acceptance of first part commissioning shall be 50 MW or 50% (fifty percent) of the allocated Project capacity, whichever is lower.
- (ii) The subsequent commissioning shall be carried out in a maximum of 2 installments, with the capacity of each instalment being chosen by the Lessee.

16.4.2 However, the Scheduled Completion Date, which is 04 (four) years from the date of acceptance of DPR, shall not get altered due to part commissioning. Irrespective of dates of part commissioning, the term of this Agreement shall be as set forth in Clause 3.1.

ARTICLE 17: OPERATION AND MAINTENANCE

17.1 O&M obligations of the Lessee

- 17.1.1 The Lessee may undertake O&M of the Project Facilities by itself or through a Contractor possessing requisite technical, financial and managerial expertise/capability, but in either case, the Lessee shall remain solely responsible to meet the requirements as per this Agreement.
- 17.1.2 The Lessee may, if required, modify, repair or otherwise make improvements to the Project Facilities to comply with the provisions of this Agreement, Applicable Laws and Applicable Permits, and conform to Standards and Specifications and Good Industry Practice.

17.2 Maintenance Programme

On or before COD and no later than 45 (forty-five) days prior to the beginning of each Accounting Year during the Operation Period, as the case may be, the Lessee shall provide to the Lessor its proposed annual programme of preventive and other scheduled maintenance (the “**Maintenance Programme**”). Such Maintenance Programme shall include:

- (i) preventive maintenance schedule;
- (ii) arrangements and procedures for carrying out urgent repairs;
- (iii) intervals and procedures for carrying out inspection of all elements of the Project Facilities;
- (iv) intervals at which the Lessee shall carry out periodic maintenance;
- (v) arrangements and procedures for carrying out safety related measures; and
- (vi) intervals for major maintenance works and the scope thereof.

17.3 Lessor’s right to take remedial measures

- 17.3.1 In the event the Lessee does not maintain and/ or repair the Project Facilities or part thereof in conformity with the provisions of this Agreement, and fails to commence the remedial works within 6 months of receipt of the O&M Inspection Report or notice on this behalf from the Lessor, as the case may be, the Lessor shall, without prejudice to its rights under this Agreement including Termination thereof, be entitled to undertake such remedial measures at the risk and cost of the Lessee, and to recover its cost from the Lessee. For avoidance of doubt, the right of the Lessor under this Clause 17.3 shall be without prejudice to its rights and remedies provided under Clause 17.4.
- 17.3.2 The Lessor shall have right, and the Lessee hereby expressly grants to the Lessor the right, to appropriate and recover the costs and Damages specified in Clause 17.4.2, directly from the Performance Security.

17.4 Overriding powers of the Lessor

- 17.4.1 If in the reasonable opinion of the Lessor, the Lessee is in Material Breach of its obligations under this Agreement, and such breach is causing or likely to cause the Project to violate applicable environmental laws, the Lessor may, without prejudice to any of its rights under this Agreement including Termination thereof, by notice require the Lessee to take reasonable measures immediately for rectifying or removing such hardship or danger, as the case may be.

- 17.4.2 If the Lessee fails to rectify or remove such hardship or danger, the Lessor may, without prejudice to any other rights or remedy available to it under this Agreement, remove such hardship at the risk and costs of the Lessee. The cost incurred by the Lessor in rectifying such default of the Lessee, as certified by the Lessor, shall be reimbursed by the Lessee to the Lessor within 7 (seven) days from the date of receipt of a claim in respect thereof from the Lessor, failing which the Lessor shall have right to appropriate and recover from the PBG.

**ARTICLE 18:
SAFETY REQUIREMENTS**

18.1 Safety Requirements

- 18.1.1 The Lessee shall comply with the provisions of this Agreement, Applicable Laws and Applicable Permits and conform to Good Industry Practice for securing the safety in and around the Seabed. In particular, the Lessee shall develop, implement and administer a surveillance and safety programme for providing a safe environment on or about the Project, and shall comply, with the safety requirements set forth set out in **Schedule IV** (the “**Safety Requirements**”).
- 18.1.2 The Lessor may appoint an experienced and qualified firm or organisation (the “**Safety Consultant**”) for carrying out safety audit of the Project in accordance with the Safety Requirements, and taking all other actions necessary for securing compliance with the Safety Requirements. The Lessee shall provide necessary access to visit the Project site during the Term of this Agreement, to any agency/authority as authorized by the Lessor.

18.2 Expenditure on Safety Requirements

All costs and expenses arising out of or relating to Safety Requirements shall be borne by the Lessee to the extent such costs and expenses form part of the works and services included in the Scope of the Project.

ARTICLE 19:
MONITORING OF OPERATION AND MAINTENANCE

19.1 Reporting

19.1.1 During Operation Period, the Lessee shall, no later than 14 (fourteen) days after the close of each quarter, furnish to the Lessor a report stating in reasonable detail the condition of the Project Facilities, including its compliance or otherwise with the O&M Manual, Maintenance Programme and Safety Requirements, and shall promptly give such other relevant information as may be required by the Lessor. In particular, such report shall separately identify and state in reasonable detail the defects and deficiencies that require rectification.

19.1.2 The Lessee shall deliver the following to the Lessor within the time specified below:

- (i) reports relating to any activity, problem, incident or circumstance that threatens or may threaten public health, safety, the environment or the welfare of the Project Facilities or the general public, as soon as reasonably practicable but no later than 12 (twelve) hours after the occurrence of such event or circumstance;
- (ii) reports relating to the action taken to mitigate any disruptions to the O&M as a result of the events or circumstances mentioned in Sub-clause (i) above, within 12 (twelve) hours of the occurrence of such event or circumstance;
- (iii) reports on any critical breakdowns or failures in the Project Facilities, within 12 (twelve) hours of such occurrence;
- (iv) reports on accidents or other incidents in relation to the personnel, any third party or the Project Facilities, together with statements on actions taken to minimize recurrence, within 2 (two) days of such occurrence;
- (v) copies of any reports, notices or responses submitted for the purposes of compliance with Applicable Laws or Applicable Permits, within 2 (two) days of making such submissions to the relevant Government Instrumentality; and
- (vi) reports on any material litigation, including any winding-up proceedings or notice to commence winding-up proceedings or material disputes to which the Lessee is a party, appointment of a receiver or administrator in relation to the business or assets of the Lessee and any adverse orders or judgments passed by any court or Government Instrumentality that affects or is likely to affect the performance of the Project Facilities, as soon as reasonably possible after the occurrence of such events.

19.1.3 In case of an accident or incident, the Lessee shall, prior to the close of each day, send to the Lessor, by facsimile or e-mail, a report stating accidents and unusual occurrences on the Project relating to the safety and security till the time the same is resolved. A weekly and monthly summary of such reports shall also be sent within 3 (three) days of the closing of each week and month, as the case may be. For the purposes of this Clause 19.1.3, accidents and unusual occurrences on the Project shall include:

- (i) death or injury to any Person;
- (ii) damaged or dislodged fixed equipment;
- (iii) disablement of any equipment during operation;
- (iv) communication failure affecting the operation of Project Facilities;

- (v) smoke or fire;
- (vi) flooding of Project Facilities; and
- (vii) such other relevant information as may be required by the Lessor.

19.2 Inspection

The Lessor or its authorized agency may inspect the Project Facilities at any time. It shall make a report of such inspection (the “**O&M Inspection Report**”) stating in reasonable detail the defects or deficiencies, if any, with particular reference to the Maintenance Programme and Safety Requirements, and send a copy thereof to the Lessee within 7 (seven) days of such inspection.

19.3 Remedial measures

- 19.4.1 The Lessee shall repair or rectify the defects or deficiencies, if any, set forth in the O&M Inspection Report referred to in Clause 19.2 and furnish a report in respect thereof to the Lessor within 15 (fifteen) days of receiving the O&M Inspection Report, as the case may be; provided that where the remedying of such defects or deficiencies is likely to take more than 45 (forty-five) days, the Lessee shall submit progress reports of the repair works once every week until such works are completed in conformity with this Agreement.
- 19.4.2 The Lessor shall require the Lessee to carry out or cause to be carried out tests, at its own cost, to determine that such remedial measures have brought the Project Facilities into compliance with the Safety Requirements and the procedure set forth in this Clause 19.4 shall be repeated until the Project Facilities conform to the Safety Requirements. In the event that remedial measures are not completed by the Lessee in conformity with the provisions of this Agreement, the Lessor shall be entitled to recover Damages from the Lessee under and in accordance with the provisions of Clause 17.3.
- 19.4.3 Notwithstanding anything to the contrary in this Agreement, the Parties may, with respect to the last [*insert period*] years of the Operation Period, mutually agree to reduce or revise the obligations of the Lessee hereunder to the extent that such reduction or revision is necessitated by the non-availability of requisite spare parts.

ARTICLE 20:
EMERGENCY MEDICAL AID

20.1 Medical Aid Posts

For providing emergency medical aid during the Operation Period, the Lessee shall maintain a first aid kit with adequate medical items at the Seabed for victims of accidents on the Project.

ARTICLE 21: FINANCIAL CLOSE

21.1 Financial Close

- 21.1.1 The Lessee hereby agrees and undertakes that it shall achieve Financial Close within 2 years from the acceptance of DPR and in the event of delay, it shall be entitled to a further period not exceeding 6 (six) months, subject to payment of Damages to the Lessor in a sum calculated at the rate of 0.05% (zero point zero five percent) of the PBG for each day of delay; provided further that no Damages shall be payable if such delay in Financial Close has occurred solely as a result of any default or delay by the Lessor in procuring satisfaction of the Conditions Precedent specified in Clause 5.1.2 or due to Force Majeure.

For the avoidance of doubt, the Damages payable hereunder by the Lessee shall be in addition to the Damages, if any, due and payable under the provisions of Clause 5.3.

The Lessor may consider, at its discretion, to extend the period allowed to achieve Financial Close if it believes that the Lessee has performed all the necessary duties to achieve the same in the stipulated period as required by this Agreement and the delay is solely on account of delay in getting Applicable Permits from the concerned Government Instrumentalities.

- 21.1.2 The Lessee shall, upon occurrence of Financial Close, notify the Lessor forthwith, and shall have provided to the Lessor, at least 2 (two) working days prior to Financial Close, 3 (three) true copies of the Financial Package, duly attested by a director of the Lessee and accepted by the Senior Lenders.

21.2 Termination due to failure to achieve Financial Close

- 21.2.1 Notwithstanding anything to the contrary contained in this Agreement, but subject to Clause 5.3 and Clause 24.5, in the event that Financial Close does not occur, for any reason whatsoever, within the period set forth in Clause 21.1.1 or the extended period provided thereunder, all rights, privileges, claims and entitlements of the Lessee under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Lessee, and this Agreement shall be deemed to have been terminated by mutual agreement of the Parties. For the avoidance of doubt, it is agreed that in the event the Parties hereto have, by mutual consent, determined the Appointed Date to precede the Financial Close, the provisions of this Clause 21.2.1 shall not apply.
- 21.2.2 Upon Termination under Clause 21.2.1 for reasons solely attributable to the Lessee, the Lessor shall be entitled to encash 10% (ten percent) of the Performance Security and appropriate the proceeds thereof as Damages.

ARTICLE 22: INSURANCE

22.1 Insurance during the Term of the Agreement

The Lessee shall effect and maintain at its own cost, during the Construction Period and the Operation Period, such insurances for such maximum sums as may be required under the Financing Agreements, and the Applicable Laws, and such insurances as may be necessary or prudent in accordance with Good Industry Practice. The Lessee shall also effect and maintain such insurances as may be necessary for mitigating the risks that may devolve on the Lessor as a consequence of any act or omission of the Lessee during the Term of this Agreement. The Lessee shall procure that in each insurance policy, the Lessor shall be a co-insured. For the avoidance of doubt, the level of insurance to be maintained by the Lessee after repayment of Senior Lenders' dues in full shall be determined on the same principles as applicable for determining the level of insurance prior to such repayment of Senior Lenders' dues.

22.2 Notice to the Lessor

No later than 45 (forty five) days prior to commencement of the Construction Period or the Operation Period, as the case may be, the Lessee shall by notice furnish to the Lessor, in reasonable detail, information in respect of the insurances that it proposes to effect and maintain in accordance with this Article 22.1. Within 30 (thirty) days of receipt of such notice, the Lessor may require the Lessee to effect and maintain such other insurances as may be necessary pursuant hereto, and in the event of any difference or disagreement relating to any such insurance, such dispute shall be resolved in accordance with this Agreement.

22.3 Remedy for failure to insure

If the Lessee fails to effect and keep in force all insurances for which it is responsible pursuant hereto, the Lessor shall have the option to either keep in force any such insurances, and pay such premia and recover the costs thereof from the Lessee, or in the event of computation of a Termination Payment, treat an amount equal to the Insurance Cover as deemed to have been received by the Lessee.

22.4 Waiver of subrogation

All insurance policies in respect of the insurance obtained by the Lessee pursuant to this Article 22 shall include a waiver of any and all rights of subrogation or recovery of the insurers thereunder against, *inter alia*, the Lessor, and its assigns, successors, undertakings and their subsidiaries, affiliates, employees, insurers and underwriters, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policies of insurance.

22.5 Lessee's waiver

The Lessee hereby further releases, assigns and waives any and all rights of subrogation or recovery against, *inter alia*, the Lessor and its assigns, undertakings and their subsidiaries, affiliates, employees, successors, insurers and underwriters, which the Lessee may otherwise have or acquire in or from or in any way connected with any loss, liability or obligation covered by policies of insurance maintained or required to be maintained by the Lessee pursuant to this Agreement (other than third party liability insurance policies) or because of deductible clauses in or inadequacy of limits of any such policies of insurance.

22.6 Application of insurance proceeds

The proceeds from all insurance claims, except life and injury, shall be applied by the Lessee for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Project Facilities, and the balance remaining, if any, shall be applied in accordance with the provisions contained in this behalf in the Financing Agreements.

22.7 No Breach of Insurance Obligation

If during the Term of this Agreement, any risk which has been previously insured becomes un-insurable due to the fact that the insurers have ceased to insure such a risk and therefore insurance cannot be maintained/ re-instated in respect of such risk, the Lessee shall not be in breach of its obligations regarding insurance under this Agreement. The Lessee shall in such circumstances, ensure that the said risk is insured with a new/ other insurer, to the extent possible.

ARTICLE 23: ACCOUNTS AND AUDIT

23.1 Audited Accounts

The Lessee shall maintain books of accounts recording all its receipts (including revenue derived by it from or on account of the Project and/or its use), income, expenditure, payments, assets and liabilities, in accordance with this Agreement, Good Industry Practice, Applicable Laws and Applicable Permits. The Lessee shall provide 2 (two) copies of its balance sheet, cash flow statement and profit and loss account, along with a report thereon by its Statutory Auditors, within 90 (ninety) days of the close of the Accounting Year to which they pertain and such audited accounts, save and except where expressly provided to the contrary, shall form the basis of payments by either Party under this Agreement.

23.2 Certification of claims by Statutory Auditors

Any claim or Document provided by the Lessee to the Lessor in connection with or relating to receipts, income, payments, costs, expenses, accounts or audit, and any matter incidental thereto shall be valid and effective only if certified by its Statutory Auditors.

23.3 Set-off

In the event any amount is due and payable by the Lessor to the Lessee, it may set-off any sums payable to it by the Lessee and pay the balance remaining. Any exercise by the Lessor of its rights under this Clause shall be without prejudice to any other rights or remedies available to it under this Agreement or otherwise.

ARTICLE 24: FORCE MAJEURE

24.1 Definition of Force Majeure

A 'Force Majeure' (FM) would mean one or more of the following acts, events or circumstances or a combination of acts, events or circumstances or the consequence(s) thereof, that wholly or partly prevents or unavoidably delays the performance by the Party (the Affected Party) of its obligations under 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, fire and explosion (to the extent originating from a source external to the site), earthquake, volcanic eruption, landslide, flood, pandemic, cyclone, typhoon or tornado if it is declared / notified by the competent state / central authority / agency (as applicable), or verified to the satisfaction of the other Party.
- b) Radioactive contamination or ionising radiation originating from a source in India or resulting from another Force Majeure Event mentioned above excluding circumstances where the source or cause of contamination or radiation is brought or has been brought into or near the Project by the Affected Party or those employed or engaged by the Affected Party.
- c) The discovery of geological conditions, toxic contamination or archaeological remains on the Project site that could not reasonably have been expected to be discovered through an inspection of the Project site and/or as per prudent industry practices.
- d) Exceptionally adverse weather condition which are in excess of the statistical measure of the last hundred (100) years.
- e) 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.
- f) Nation/state-wide strike, lockout, boycotts or other industrial disputes which are not directly and solely attributable to the actions of the Affected Party, but does not include strike or labour unrest limited to the Affected Party or its Contractor.
- g) Nationalisation or any compulsory acquisition by any Indian Governmental Instrumentality/ State Government in national interest or expropriation of any material Project assets or rights of the Generator, as a result of which the Lessee or its shareholders are deprived (wholly or partly) of their rights or entitlements under this Agreement. Provided that such action does not constitute remedies or sanctions lawfully exercised by the Lessor or any other Government Authority as a result of any breach of any of the Applicable Laws or the Applicable Permits by the Lessee or its related parties.
- h) Any requirement, action or omission to act pursuant to any judgment or order of any court or judicial authority in India (provided such requirement, action or omission to act is not due to the breach by the Affected Party of any Law or any of their respective obligations under this Agreement).
- i) Any unlawful or unauthorised or without jurisdiction revocation of, or delay in, or refusal, or failure to renew or grant without valid cause, any Permits of the Lessee or any of the clearance, licence, authorization to be obtained by the Lessee to perform its respective obligations under

this Agreement and/or the Project documents; provided that such delay, modification, denial, refusal or revocation did not result from the Lessee's or any Contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such Permits or clearance, licence, authorization, as the case may be.

24.2 Force Majeure Exclusions

Notwithstanding anything contained in Article 24.1 hereinabove, 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 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 or labour disturbances 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, or lack of due diligence expected from any prudent and rational human being; (ii) Failure to comply with an Indian Law; or (iii) Breach of, or default under this Agreement.

24.3 Notice of Force Majeure Event

24.3.1 As soon as practicable and in any case within 7 (seven) days of the date of occurrence of a Force Majeure Event or the date of knowledge thereof, the Party affected thereby shall notify the other Party of the same setting out, *inter alia*, the following in reasonable detail:

- (i) the nature and extent of the Force Majeure Event which is subject of any claim for relief under this Article 24 with evidence in support thereof;
- (ii) the estimated duration and effect or probable effect which such Force Majeure Event is having or will have on such Party's performance of any of its obligations under this Agreement;
- (iii) the measures which the Party affected thereby has taken, is taking or proposes to take to alleviate/ mitigate the impact of such Force Majeure Event and to resume performance of such of its obligations affected thereby; and
- (iv) any other relevant information concerning the Force Majeure Event, and/ or the rights and obligations of the Parties under this Agreement.

24.3.2 For so long as such Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required by Clause 24.3.2, and such other information as the other Party may reasonably request such Party to provide.

24.4 Performance of Obligations

If a Party is rendered wholly or partially unable to perform any of its obligations under this Agreement because of a Force Majeure Event, such Party shall be excused from performance of such obligation to the extent it is unable to perform the same on account of such Force Majeure Event provided that:

- (i) due notice of the Force Majeure event has been given as required by the preceding Clause 24.3;
- (ii) the excuse from performance shall be of no greater scope or no longer duration than is necessitated by the Force Majeure Event;
- (iii) such Party has taken all reasonable efforts to avoid, prevent, mitigate and limit damage, if any, caused or is likely to be caused to the Project as a result of the Force Majeure Event and to restore the Project Facilities, in accordance with the Good Industry Practice and its relative obligations under this Agreement;
- (iv) when such Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party written notice to that effect and shall promptly resume performance of its obligations hereunder, the non-issue of such notice being no excuse for any delay for resuming such performance;
- (v) such Party shall continue to perform such of its obligations which are not affected by the Force Majeure and which are capable of being performed in accordance with this Agreement; and
- (vi) any insurance proceeds received shall be, subject to the provisions of the Financing Agreements, entirely applied to repair, replace or restore the assets damaged on account of the Force Majeure or in accordance with Good Industry Practice.
- (vii) Provided further that, nothing shall absolve the Affected Party from any payment obligations accrued prior to the occurrence of the underlying Force Majeure Event.

24.5 Effect of Force Majeure event on the timeline of Financial Close and Term of this Agreement

- 24.5.1 Upon the occurrence of any Force Majeure Event prior to the Appointed Date, the period set forth in Clause 21.1.1 for achieving Financial Close shall be extended by a period equal in length to the duration of the Force Majeure Event.
- 24.5.2 At any time after the Appointed Date, if any Force Majeure Event occurs, the Term of this Agreement shall be extended by a period equal in length to the duration for which such Force Majeure Event subsists.

24.6 Allocation of costs arising out of Force Majeure

- 24.6.1 Upon occurrence of any Force Majeure Event, the Parties shall bear their respective costs and no Party shall be required to pay to the other Party any costs thereof.

24.7 Termination due to Force Majeure event

- 24.7.1 If a Force Majeure Event subsists for a period of 270 (two hundred and seventy) days or more within a continuous period of 365 (three hundred and sixty five) days, and in case the above deadline is not extended on mutually agreed basis, either Party may in its discretion terminate this Agreement by issuing a Termination Notice to the other Party without being liable in any manner whatsoever, save as provided in this Article 24, and upon issue of such Termination Notice, this Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith:
- 24.7.2 Provided that before issuing such Termination Notice, the Party intending to issue the

Termination Notice shall inform the other Party of such intention and grant 15 (fifteen) days' time to make a representation, and may after the expiry of such 15 (fifteen) days period, whether or not it is in receipt of such representation, in its sole discretion issue the Termination Notice.

24.7.3 On termination of this Agreement pursuant to this Article 24.6:

- i. In case of termination on account of an event listed as Force Majeure as per Articles 24.1 (a), (b), (c) and (d) above, no Termination Compensation shall be payable to the Affected Party.
- ii. In case of termination at the instance of the Lessee on account of an event listed as Force Majeure as per Articles 24.1. (e), (f), (g), (h) and (i) above, the Lessor will have the option to (but will not be obliged to) take-over the Project assets by paying the Debt Due. In case the Lessor chooses not to exercise the above option, and the same is not agreed to by the Lessee, it will result in a dispute as per this Agreement, and will be resolved as per the Dispute Resolution Mechanism under this Agreement.

24.8 Liability for other losses, damages etc.

Save and except as expressly provided in this Article 24, neither Party hereto shall be liable in any manner whatsoever to the other Party in respect of any loss, damage cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure event or exercise of any right pursuant hereto.

24.9 Dispute resolution

In the event that the Parties are unable to agree in good faith about the occurrence or existence of a Force Majeure Event, such dispute shall be resolved in accordance with this Agreement; provided that the burden of proof as to the occurrence or existence of such Force Majeure Event shall be upon the Party claiming relief and/ or excuse on account of such Force Majeure.

**ARTICLE 25:
COMPENSATION FOR BREACH OF AGREEMENT**

25.1 Compensation for default by the Lessee

Subject to the provisions of Clause 25.4, in the event of the Lessee being in material default or breach of this Agreement, the Lessor shall issue a notice to the Lessee to remedy the breach or the default in the Cure Period, which shall be 90 days from the date of issue of notice. Upon expiry of the Cure Period, if the Lessee has not remedied/ cured the default or breach and the period given to remedy/ cure the breach or the default has not been mutually extended, the Lessee shall pay to the Lessor by way of compensation, all direct costs suffered or incurred by the Lessor as a consequence of such material default or breach, within 30 (thirty) days of receipt of the demand supported by necessary particulars thereof; provided that no compensation shall be payable under this Clause 25.1 for any Material Breach or default in respect of which Damages are expressly specified and payable under this Agreement or for any consequential losses incurred by the Lessor.

25.2 Remedy for default by the Lessor

Subject to the provisions of Clause 25.4, in the event of the Lessor being in material default or breach of this Agreement, the Lessee shall issue a notice to the Lessor giving 90 (ninety) days to remedy the breach or the default. Upon expiry of the said 90 (ninety) days, if the Lessor has not remedied/ cured the default or breach and the period given to remedy/ cure the breach or the default has not been mutually extended, the Lessee may terminate this Agreement under and in accordance with Article 27.

25.3 Extension of Term of this Agreement

Subject to the provisions of Clause 25.4, in the event that a material default or breach of this Agreement by the Lessor causes delay in achieving COD or leads to suspension of operation of Project Facilities, as the case may be, the Lessor shall extend the Term of this Agreement, such extension being equal in duration to the period by which COD was delayed or the operation of the Project Facilities remained suspended on account thereof, as the case may be.

25.4 Mitigation of costs and damage

The Affected Party shall make all reasonable efforts to mitigate or limit the costs and damage arising out of or as a result of breach of Agreement by the other Party.

ARTICLE 26:
SUSPENSION OF LESSEE'S RIGHTS

26.1 Suspension

- 26.1.1 Upon occurrence of a Lessee Event of Default, the Lessor shall be entitled, without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to (i) suspend all rights of the Lessee under this Agreement, and (ii) exercise such rights itself and perform the obligations hereunder or authorise any other person to exercise or perform the same on its behalf during such suspension (the “**Suspension**”). Suspension hereunder shall be effective forthwith upon issue of notice by the Lessor to the Lessee and may extend up to a period not exceeding 180 (one hundred and eighty) days from the date of issue of such notice; provided that upon written request from the Lessee and the Lenders’ Representative, the Lessor shall extend the aforesaid period of 180 (one hundred and eighty) days by a further period not exceeding 90 (ninety) days.
- 26.1.2 The Lessee acknowledges that Suspension shall not entitle the Lessee to an extension of the Term of this Agreement.

26.2 Lessor to act on behalf of the Lessee

During the period of Suspension, the Lessor shall be entitled to discharge the obligations of the Lessee, including remedying and rectifying the cause of Suspension. During the period of Suspension hereunder, all rights and liabilities vested in the Lessee in accordance with the provisions of this Agreement shall continue to vest therein and all things done or actions taken, including expenditure incurred by the Lessor for discharging the obligations of the Lessee under and in accordance with this Agreement and the Project Agreements, shall be deemed to have been done or taken for and on behalf of the Lessee and the Lessee undertakes to indemnify the Lessor for all costs incurred during such period. The Lessee hereby licences and sub-licences respectively, the Lessor or any other person authorised by it to use during Suspension, all Intellectual Property belonging to or licenced to the Lessee with respect to the Project Facilities and its design, engineering, construction, operation and maintenance, and which is used or created by the Lessee in performing its obligations under the Agreement.

26.3 Revocation of Suspension

- 26.3.1 In the event that the Lessor shall have rectified or removed the cause of Suspension within a period not exceeding 90 (ninety) days from the date of Suspension, it shall revoke the Suspension forthwith and restore all rights of the Lessee under this Agreement. For the avoidance of doubt, the Parties expressly agree that the Lessor may, in its discretion, revoke the Suspension at any time, whether or not the cause of Suspension has been rectified or removed hereunder.
- 26.3.2 Upon the Lessee having cured the Lessee Event of Default within a period not exceeding 90 (ninety) days from the date of Suspension, the Lessor shall revoke the Suspension forthwith and restore all rights of the Lessee under this Agreement.

26.4 Substitution

At any time during the period of Suspension, the Lenders’ Representative, on behalf of Senior Lenders, shall be entitled to substitute the Lessee under and in accordance with the Substitution Agreement, and upon receipt of notice thereunder from the Lenders’ Representative, the Lessor shall withhold Termination for a period not exceeding 180 (one hundred and eighty) days from the date of Suspension, and any extension thereof under Clause 26.1, for enabling the Lenders’ Representative to exercise its rights of substitution on behalf of Senior Lenders.

26.5 Termination

- 26.5.1 At any time during the period of Suspension under this Article 26, the Lessee may by notice require the Lessor to revoke the Suspension and issue a Termination Notice. Subject to the rights of the Lenders' Representative to undertake substitution in accordance with the provisions of this Agreement and within the period specified in Clause 26.4, the Lessor shall, within 15 (fifteen) days of receipt of such notice, terminate this Agreement under and in accordance with Article 27.
- 26.5.2 Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 180 (one hundred and eighty) days from the date of Suspension hereunder or within the extended period, if any, set forth in Clause 26.1, this Agreement shall, upon expiry of the aforesaid period, be deemed to have been terminated by mutual agreement of the Parties and all the provisions of this Agreement shall apply, *mutatis mutandis*, to such Termination as if a Termination Notice had been issued by the Lessor upon occurrence of a Lessee Event of Default.

**ARTICLE 27:
EVENTS OF DEFAULT AND TERMINATION**

27.1 Termination for Lessee Event of Default

27.1.1 Save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and the Lessee fails to cure the default within the Cure Period set forth below, or where no Cure Period is specified, then within a Cure Period of 60 (sixty) days, the Lessee shall be deemed to be in default of this Agreement (the “**Lessee Event of Default**”), unless the default has occurred solely as a result of any breach of this Agreement by the Lessor or due to Force Majeure. The defaults referred to herein shall include:

- (a) The Security Deposit/ PBG has been encashed and appropriated and the Lessee fails to replenish or provide fresh Security Deposit/ PBG within a Cure Period of 30 (thirty) days;
- (b) The Lessee fails to make any payment to the Lessor within the period specified in this Agreement;
- (c) The Lessee fails to use the Seabed for the purposes for which it has been granted, within the stipulated time period, or uses the Seabed for purposes other than that for which the lease has been granted;
- (d) The Lessee repudiates this Agreement or otherwise takes any action or evidences or conveys an intention not to be bound by this Agreement;
- (e) Any representation or warranty of the Lessee is, as of the date of the Agreement, found to be materially false, incorrect or misleading or the Lessee is at any time thereafter found to be in breach thereof;
- (f) The Lessee violates terms and conditions of this Agreement or fails to fulfill or contravenes any of the terms or covenants or conditions contained herein;
- (g) The Lessee fails to produce requisite documents pertaining to the Survey to the concerned Government Instrumentalities;
- (h) The Lessee does not commence activity with respect to the Survey within 6 (six) months from the Lease Commencement Date;
- (i) The Lessee causes irreparable environmental damage to flora and fauna.
- (j) the Lessee abandons or manifests intention to abandon the construction or O&M of the Project Facilities without the prior written consent of the Lessor;
- (k) the COD does not occur within the period specified in Clause 16.1.3;
- (l) upon occurrence of a financial default, the Lenders’ Representative has by notice required the Lessor to undertake Suspension or Termination, as the case may be, in accordance with the Substitution Agreement and the Lessee fails to cure the default within the Cure Period specified hereinabove;
- (m) a breach of any of the Project Agreements by the Lessee has caused a Material Adverse Effect;
- (n) the Lessee is non-compliant with the Standards and Specifications and has failed to

remedy the same within 14 (fourteen) days;

- (o) the Lessee creates any Encumbrance in breach of this Agreement;
- (p) a Change in Ownership has occurred in breach of the provisions of Clause 7.7;
- (q) there is a transfer, pursuant to law either of (a) the rights and/or obligations of the Lessee under any of the Project Agreements, or of (b) all or part of the assets or undertaking of the Lessee, and such transfer causes a Material Adverse Effect;
- (r) an execution levied on any of the assets of the Lessee has caused a Material Adverse Effect;
- (s) the Lessee is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the Lessee or for the whole or material parts of its assets that has a material bearing on the Project;
- (t) the Lessee has been, or is in the process of being liquidated, dissolved, wound-up, amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the Lessor, a Material Adverse Effect;
- (u) a resolution for winding up of the Lessee is passed, or any petition for winding up of the Lessee is admitted by a court of competent jurisdiction and a provisional liquidator or receiver is appointed and such order has not been set aside within 90 (ninety) days of the date thereof or the Lessee is ordered to be wound up by Court except for the purpose of amalgamation or reconstruction; provided that, as part of such amalgamation or reconstruction, the entire property, assets and undertaking of the Lessee are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the Lessee under this Agreement and the Project Agreements; and provided that:
 - (a) the amalgamated or reconstructed entity has the capability and operating experience necessary for the performance of its obligations under this Agreement and the Project Agreements;
 - (b) the amalgamated or reconstructed entity has the financial standing to perform its obligations under this Agreement and the Project Agreements and has a credit worthiness at least as good as that of the Lessee as at the Appointed Date; and
 - (c) each of the Project Agreements remains in full force and effect;
- (w) the Lessee submits to the Lessor any statement, notice or other Document, in written or electronic form, which has a material effect on the Lessor's rights, obligations or interests and which is false in material particulars;
- (x) the Lessee fails to fulfil the Conditions Precedent as set out in Article 4 within the period specified therein;
- (y) the Lessee has failed to fulfil any obligation, for which Termination has been specified in this Agreement;
- (z) the Lessee commits a default in complying with any other provision if such a default causes a Material Adverse Effect on the Lessor;

- (xx) the Lessee is in Material Breach of any of its obligations under this Agreement and the same has not been remedied for more than 30 (thirty) days.

27.1.2 Termination of Agreement during the Study/ Survey period: If the event of default is considered to be of remediable nature, the Lessor may give notice to the Lessee, requiring them to ensure remedy of the same within a specified period of time granted for the purpose from the date of receipt of the notice and informing the Lessee that whole or part of the Security Deposit may be forfeited and appropriated as penalty if such remedial work is not done within the timeframe stipulated. In case the imposed penalty is higher than the Security Deposit, the Lessee shall be liable to pay the difference.

If the default is not remedied within the stipulated timeframe, the Lessor shall be entitled to terminate this Agreement by issuing a termination notice to the Lessee. If the Lessor is satisfied that the default cannot be remedied, the Lessor may, on giving 60 (sixty) days' notice to the Lessee and after considering representation, if any, made by them, terminate this Agreement and order forfeiture of whole or any part of the Security Deposit.

It is clarified that, notwithstanding anything to the contrary, the Lessee shall have the right to terminate this Agreement during the study/survey, without any liability to the Lessor, if the Lessee determines to its sole satisfaction that the development of the Project is rendered non-feasible owing to low wind resource, high waves/ currents, complex seabed geology, or any other reason that would render the Project non-feasible. In such a case the Lessee shall forfeit the security deposit.

27.1.3 Termination of Agreement subsequent to the Study/ Survey period: Without prejudice to any other rights or remedies which the Lessor may have under this Agreement, upon occurrence of a Lessee Event of Default, the Lessor shall be entitled to terminate this Agreement by issuing a Termination Notice to the Lessee; provided that before issuing the Termination Notice, the Lessor shall by a notice inform the Lessee of its intention to issue such Termination Notice and grant 15 (fifteen) days to the Lessee to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice, subject to the provisions of Clause 27.1.4.

27.1.4 The Lessor shall, if there be Senior Lenders, send a copy of its notice of intention to issue a Termination Notice referred to in Clause 27.1.3 to inform the Lenders' Representative and grant 15 (fifteen) days to the Lenders' Representative, for making a representation on behalf of the Senior Lenders stating the intention to substitute the Lessee in accordance with the Substitution Agreement. In the event the Lessor receives such representation on behalf of Senior Lenders, it shall, in its discretion, either withhold Termination for a period not exceeding 180 (one hundred and eighty) days from the date of such representation or exercise its right of Suspension, as the case may be, for enabling the Lenders' Representative to exercise the Senior Lenders' right of substitution in accordance with the Substitution Agreement.

27.1.5 Provided that the Lenders' Representative may, instead of exercising the Senior Lenders' right of substitution, procure that the default specified in the notice is cured within the aforesaid period of 180 (one hundred and eighty) days, and upon such curing thereof, the Lessor shall withdraw its notice referred to above and restore all the rights of the Lessee.

27.1.6 Provided further that upon written request from the Lenders' Representative and the Lessee, the Lessor may extend the aforesaid period of 180 (one hundred and eighty) days by such further period not exceeding 90 (ninety) days, as the Lessor may deem appropriate.

27.2 Termination for Lessor Default

27.2.1 In the event that any of the defaults specified below shall have occurred, and the Lessor fails to

cure such default within a Cure Period of 90 (ninety) days or such longer period as has been expressly provided in this Agreement, the Lessor shall be deemed to be in default of this Agreement (the “**Lessor Default**”) unless the default has occurred as a result of any breach of this Agreement by the Lessee or due to Force Majeure. The defaults referred to herein shall include:

- (a) The Lessor commits a material breach or default in complying with any of the provisions of this Agreement and such default has a Material Adverse Effect on the Lessee;
- (b) The Lessor repudiates this Agreement or otherwise takes any action that amounts to or manifests an irrevocable intention not to be bound by this Agreement.
- (c) the Lessor has failed to make any payment to the Lessee within the period specified in this Agreement;

27.2.2 Termination of Agreement during the Study/ Survey period: If the event of default is considered to be of remediable nature, the Lessee may give notice to the Lessor, requiring them to ensure remedy of the same within a specified period of time granted for the purpose from the date of receipt of the notice. If the default is not remedied within the stipulated timeframe, the Lessee shall be entitled to terminate this Agreement by issuing a termination notice to the Lessor.

If the Lessee is satisfied that the default cannot be remedied, the Lessee may, on giving 60 (sixty) days’ notice to the Lessor and after considering representation, if any, made by them, terminate this Agreement.

27.2.3 Without prejudice to any other right or remedy which the Lessee may have under this Agreement, upon occurrence of an Lessor Default, the Lessee shall, subject to the provisions of the Substitution Agreement, be entitled to terminate this Agreement by issuing a Termination Notice to the Lessor; provided that before issuing the Termination Notice, the Lessee shall by a notice inform the Lessor of its intention to issue the Termination Notice and grant 15 (fifteen) days to the Lessor to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.

27.3 Consequences of Termination

27.3.1 On expiry or earlier termination of this Agreement:

- (a) the Lessee shall forthwith comply with and conform to the following requirements:
 - (i) deliver the actual or constructive possession of the Seabed, free and clear of all Encumbrances;
 - (ii) execute such deeds of conveyance, documents and other writings as the Lessor may reasonably require for conveying, delivering, divesting and assigning all the rights, title and interest of the Lessee in the Seabed in favour of the Lessor;
 - (iii) comply with all other requirements as may be prescribed or required under Applicable Laws for completing the divestment and assignment of all rights, title and interest of the Lessee in the Seabed, free from all Encumbrances, absolutely unto the Lessor or to its nominee;
 - (iv) furnish to the Lessor complete records of all the Data (but excluding the information covered under intellectual property rights of the Lessee). It is clarified that the Lessee shall not be permitted to use the Data for any other

purpose whatsoever upon termination of expiry or termination of this Agreement (save in relation to the Project).

- (v) decommission the Project within a period of 2 (two) years in accordance with prevalent international best practice, the decommissioning and site restoration programme furnished by the Lessee pursuant to this Agreement (and set out as **Schedule VI**), Applicable Laws, including the Offshore Wind Energy Lease Rules, 2023, and such guidelines and norms as may be issued in this regard from time to time. In particular, this obligation shall include:
 - a. decommissioning the wind turbines, installations, machinery, and used cables;
 - b. clearing the seabed of all obstructions created by the Project;
 - c. uprooting and demolishing the foundation structures;
 - d. removing the debris and returning the seabed to its original configuration;
 - e. removing or disposing off all the components of the Project such as wind turbines or its parts, equipment, machinery, cables, electrical infrastructures and civil infrastructure existing during the Term;
 - f. reusing, recycling or responsibly disposing off all materials removed;
 - g. undertaking all activities required to return the Seabed to its predevelopment state or to render the Seabed compatible with its intended after-use after cessation of the Project-related operations in relation thereto (including, as appropriate, removal of equipment, structures and debris, replacement of topsoil, re-vegetation, slope stabilisation, in-filling of excavations or any other appropriate actions in the circumstances);
 - h. furnishing to the Lessor, no later than 7 (seven) days after the close of each quarter, a report on physical and financial progress of the decommissioning of the Project (including any health and safety incidents that may have occurred) and promptly giving such other relevant information as may be required by the Lessor.

It is clarified that, for the purpose of discharging its obligations under this sub-clause, the Lessee shall be deemed to be a licensee to the Seabed, and shall have no obligation to make payment of lease rentals to the Lessor.

- (b) the Parties shall cooperate on a best effort basis and take all necessary measures, in good faith, to achieve a smooth transfer of the Seabed in accordance with the provisions of this Agreement.

27.3.2 The Lessee hereby irrevocably appoints the Lessor (or its nominee) to be its true and lawful attorney, to execute and sign in the name of the Lessor a transfer or surrender of the Lease granted hereunder at any time after the expiry or earlier termination of this Agreement, a sufficient proof of which will be the declaration of any duly authorised officer of the Lessor, and the Lessee consents to it being registered for this purpose.

27.3.3 The Lessee shall bear and pay all costs incidental to divestment of all of the rights, title and

interest of the Seabed in favour of the Lessor upon expiry or termination of this Agreement, save and except that all stamp duties payable on any deeds or documents executed by the Lessee in connection with such divestment shall be borne by the Lessor.

27.4 Obligation of Parties

Following issue of Termination Notice by either Party, the Parties shall, subject to the provisions of Financing Agreements and the rights of the Senior Lenders provided therein, promptly take all such steps as may be necessary or required to ensure that:

- (i) until Termination the Parties shall, to the fullest extent possible, discharge their respective obligations so as to maintain the continued operation of the Project Facilities;
- (ii) the Seabed is handed back to the Lessor by Lessee on the Expiry Date free from any Encumbrance along with any payment that may be due by Lessee to the Lessor.

27.5 Withdrawal of Termination Notice

27.5.1 Notwithstanding anything inconsistent contained in this Agreement, if the Party who has been served with the Termination Notice cures the underlying event of default to the satisfaction of the other Party at any time before the actual Termination occurs, the Termination Notice shall be withdrawn by the Party which had issued the same.

27.5.2 Provided that the Party in breach shall compensate the other Party for any direct costs suffered by the non-defaulting Party due to the event of default which led to the issue of Termination Notice or such costs as mutually agreed upon by both Parties.

27.6 Termination Payment

27.6.1 Upon Termination on account of a Lessor Default, the Lessor shall pay to the Lessee, by way of Termination Payment, an amount equal to:

- (i) Debt Due; and
- (ii) 105% (one hundred and five percent) of the Adjusted Equity.

27.6.2 Termination Payment shall become due and payable to the Lessee within 30 (thirty) days of a demand being made by the Lessee to the Authority with the necessary particulars, and in the event of any delay, the Lessor shall be liable in terms of Rule 22 of the Offshore Wind Energy Lease Rules, 2023; provided that such delay shall not exceed 90 (ninety) days. For the avoidance of doubt, it is expressly agreed that Termination Payment shall constitute full discharge by the Lessor of its payment obligations in respect thereof hereunder.

27.6.3 The Lessee expressly agrees that Termination Payment under this Article 27 shall constitute a full and final settlement of all claims of the Lessee on account of Termination of this Agreement for any reason whatsoever and that the Lessee or any shareholder thereof shall not have any further right or claim under any law, treaty, convention, contract or otherwise.

27.7 Other rights and obligations of the Lessor

27.7.1 Upon Termination of this Agreement on account of Lessee Event of Default, the Lessor shall succeed upon election by the Lessor, without the necessity of any further action by the Lessee, to the interests of the Lessee under such of the Project Agreements as the Lessor may in its discretion deem appropriate, and shall upon such election be liable to the Contractor only for

compensation accruing and becoming due and payable to them under the terms of their respective Project Agreements from and after the date the Lessor elects to succeed to the interests of the Lessee. For the avoidance of doubt, the Lessee acknowledges and agrees that all sums claimed by such Contractor as being due and owing for works and services performed or accruing on account of any act, omission or event prior to such date shall constitute debt between the Lessee and such Contractor, and the Lessor shall not in any manner be liable for such sums. It is further agreed that in the event the Lessor elects to cure any outstanding defaults under such Project Agreements, the amount expended by the Lessor for this purpose shall be recovered from the Lessee or deducted from the Termination Payment, as the case may be.

- 27.7.2 Notwithstanding anything contained in this Agreement, the Lessor shall not, as a consequence of Termination or otherwise, have any obligation whatsoever including obligations as to compensation for loss of employment, continuance or regularization of employment, absorption or re-employment on any ground, in relation to any person in the employment of or engaged by Lessee in connection with the Project, and the handover of the Project Facilities by Lessee to the Lessor shall be free from any such obligation.

27.8 Survival of rights

Notwithstanding anything to the contrary contained in this Agreement, any Termination pursuant to the provisions of this Agreement shall be without prejudice to the accrued rights of either Party including its right to claim and recover Damages, insurance proceeds, security deposits, and other rights and remedies, which it may have in law or contract. All rights and obligations of either Party under this Agreement, including Termination Payment, shall survive the Termination to the extent such survival is necessary for giving effect to such rights and obligations.

ARTICLE 28: ASSIGNMENT AND CHARGES

28.1 Restrictions on assignment and charges

- 28.1.1 Subject to Clauses 28.2 and 28.3, this Agreement shall not be assigned by the Lessee to any person, save and except with the prior consent in writing of the Lessor, which consent the Lessor shall not be entitled to decline without assigning any reason.
- 28.1.2 Subject to the provisions of Clause 28.2, the Lessee shall not create nor permit to subsist any Encumbrance, or otherwise transfer or dispose of all or any of its rights and benefits under this Agreement or any Project Agreement to which the Lessee is a party except with prior consent in writing of the Lessor, which consent the Lessor shall not be entitled to decline without assigning any reason.

28.2 Permitted assignment and charges

The restraints set forth in Clause 28.1 shall not apply to:

- (i) liens arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Project;
- (ii) mortgages/ pledges/ hypothecation of goods/ assets other than Seabed and their related Documents of title, arising or created in the ordinary course of business of the Project, and as security only for indebtedness the Senior Lenders under the Financing Agreements and/or for working capital arrangements for the Project;
- (iii) assignment of rights, interest and obligations of the Lessee to or in favour of the Lenders' Representative as nominee and for the benefit of the Senior Lenders, to the extent covered by and in accordance with the Substitution Agreement as security for financing provided by Senior Lenders under the Financing Agreements; and
- (iv) Encumbrances required by any Applicable Law.

28.3 Substitution Agreement

- 28.3.1 The Lenders' Representative, on behalf of Senior Lenders, may exercise the right to substitute the Lessee pursuant to the agreement for substitution of the Lessee (the "**Substitution Agreement**") to be entered into amongst the Lessee, the Lessor and the Lenders' Representative, on behalf of Senior Lenders, substantially in the form set forth in Schedule V, subject to any specific requirements of any Senior Lenders.
- 28.3.2 Upon substitution of the Lessee under and in accordance with the Substitution Agreement, the nominated company substituting the Lessee shall be deemed to be the Lessee under this Agreement and shall enjoy all rights and be responsible for all obligations of the Lessee under this Agreement as if it were the Lessee.

28.4 Assignment by the Lessor

Notwithstanding anything to the contrary contained in this Agreement, the Lessor may, after giving 15 (fifteen) days' notice to the Lessee, assign and/ or transfer any of its rights and benefits and/or obligations under this Agreement to an assignee who is, in the reasonable opinion of the Lessor, capable of fulfilling all of the Lessor's then outstanding obligations under this Agreement.

**ARTICLE 29:
CHANGE IN LAW**

29.1 Increase in Cost

- 29.1.1 If as a result of Change in Law, the Lessee is obliged to incur additional capital expenditure and/or the additional operating costs or both, as the case may be, for operation, management and/ or implementation of the Project in excess of Rs. [*insert amount*] (Rupees [*insert amount*]) the Lessee may so notify the Lessor and upon notice by the Lessee, the Parties shall meet, as soon as reasonably practicable but no later than 30 (thirty) days from the date of notice and mutually agree on an arrangement that would restore the Lessee to the same economic position as if such Change in Law has not occurred. In case the Parties do not mutually agree on an arrangement, a committee of 3 (three) members will be found (1 (one) member from the Lessor, 1 (one) member from Lessee, and 1 (one) member to be mutually agreed by the Parties) and the decision of this committee on this matter shall be final and binding on both the Parties.
- 29.1.2 For the avoidance of doubt, it is agreed that this Clause 29.1.1 shall be restricted to Changes in Law directly affecting the Lessee's costs of performing its obligations under this Agreement.

**ARTICLE 30:
LIABILITY AND INDEMNITY**

30.1 General indemnity

- 30.1.1 The Lessee will indemnify, defend, save and hold harmless the Lessor and its officers, servants, agents and Government Instrumentalities (the “**Lessor Indemnified Persons**”) from and against, and reimburse them for all suits, obligations, damages, proceedings, actions, demands and claims from third parties for any loss, damage, cost and expense of whatever kind and nature, whether arising out of any breach by the Lessee of any of its obligations under this Agreement or any related agreement or from any negligence of the Lessee under contract or tort or on any other ground whatsoever, except to the extent that any such suits, proceedings, actions, demands and claims have arisen due to any negligent act or omission, or breach or default of this Agreement on the part of the Lessor Indemnified Persons.
- 30.1.2 For the purpose of this indemnification, claims shall mean and include all obligations, penalties/ compensation paid, actual damages and direct costs reasonably incurred in the defense of any claim, including, reasonable accountants’, attorneys’ and expert witness’ fees, costs of investigation and proof of facts, court costs, other litigation expenses and travel and living expenses. The Lessor shall have the right to defend any such claim against it.
- 30.1.3 In no event shall the Lessee indemnify the Lessor, whether in contract, tort (including negligence) or otherwise, for any exemplary, indirect, incidental, special, remote, punitive, or consequential damages (including loss of use, loss of data, cost of cover, business interruption, or loss of profits arising out of or pertaining to this Agreement).
- 30.1.4 The Lessor will indemnify, defend, save and hold harmless the Lessee against any and all suits, proceedings, actions, demands’ and claims from third parties for any loss, damage, cost and expense of whatever kind and nature arising out of breach by the Lessor of any of its obligations under this Agreement or any related agreement, which materially and adversely affect the performance by the Lessee of its obligations under this Agreement, save and except that where any such claim, suit, proceeding, action, and/or demand has arisen due to a negligent act or omission, or breach of any of its obligations under any provision of this Agreement or any related agreement and/or breach of its statutory duty on the part of the Lessee, its subsidiaries, affiliates, contractors, servants or agents, the same shall be the liability of the Lessee.

30.2 Indemnity by the Lessee

- 30.2.1 Without limiting the generality of Clause 30.1, the Lessee shall fully indemnify, hold harmless and defend the Lessor and the Lessor Indemnified Persons from and against any and all loss and/or damages arising out of or with respect to:
- (i) failure of the Lessee to comply with Applicable Laws and Applicable Permits;
 - (ii) payment of Taxes required to be made by the Lessee in respect of the income or other taxes of the Lessee’s contractors, suppliers and representatives; or
 - (iii) non-payment of amounts due as a result of materials or services furnished to the Lessee or any of its Contractor which are payable by the Lessee or any of its Contractors.
- 30.2.2 Without limiting the generality of the provisions of this Article 30, the Lessee shall fully indemnify, hold harmless and defend the Lessor Indemnified Persons from and against any and all suits, proceedings, actions, claims, demands, liabilities and damages which the Lessor Indemnified Persons may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights,

copyrights or other intellectual Property, proprietary or confidentiality rights with respect to any materials, information, design or process used by the Lessee or by the Lessee's Contractor in performing the Lessee's obligations or in any way incorporated in or related to the Project. If in any such suit, action, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Lessee shall make every reasonable effort, by giving a satisfactory bond or of otherwise to secure the revocation or suspension of the injunction or restraint order if, in any such suit, action, claim or proceedings, the Project, or any part thereof or comprised therein, is held to constitute an infringement and its use is permanently enjoined, the Lessee shall promptly make every reasonable effort to secure for the Lessor a licence, at no cost to the Lessor, authorising continued use of the infringing work. If the Lessee is unable to secure such licence within a reasonable time, the Lessee shall, at its own expense, and without impairing the Standards and Specifications, either replace the affected work, or part, or process thereof with non-infringing work or part or process or modify the same so that it becomes non-infringing.

30.3 Notice and contest of claims

In the event that either Party receives a claim or demand from a third party in respect of which it is entitled to the benefit of an indemnity under this Article 30 (the "**Indemnified Party**") it shall notify the other Party (the "**Indemnifying Party**") within 15 (fifteen) days of receipt of the claim or demand and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim or demand, it may conduct the proceedings in the name of the Indemnified Party, subject to the Indemnified Party being secured against any costs involved, to its reasonable satisfaction.

30.4 Defence of claims

- 30.4.1 The Indemnified Party shall have the right, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to indemnified hereunder, and reasonable costs and expenses thereof shall be indemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party in respect of loss to the full extent provided by this Article 28, the Indemnifying Party shall be entitled, at its option, to assume and control the defence of such claim, action, suit or proceeding, liabilities, payments and obligations at its expense and through the counsel of its choice; provided it gives prompt notice of its intention to do so to the Indemnified Party and reimburses the Indemnified Party for the reasonable cost and expenses incurred by the Indemnified Party prior to the assumption by the Indemnifying Party of such defence. The Indemnifying Party shall not be entitled to settle or compromise any claim, demand action, suit or proceeding without the prior written consent of the Indemnified Party, unless the Indemnifying Party provides such security to the Indemnified Party as shall be reasonably required by the Indemnified Party to secure the loss to be indemnified hereunder to the extent so compromised or settled.
- 30.4.2 If the Indemnifying Party has exercised its rights under Clause 30.3, the Indemnified Party shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).
- 30.4.3 If the Indemnifying Party exercises its rights under Clause 30.3, the Indemnified Party shall nevertheless have the right to employ its own counsel, and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party, when and as incurred, unless:

- (i) the employment of counsel by such Party has been authorised in writing by the Indemnifying Party; or
- (ii) the Indemnified Party shall have reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in the conduct of the defence of such action; or
- (iii) the Indemnifying Party shall not in fact, have employed independent counsel reasonably satisfactory to the Indemnified Party, to assume the defence of such action and shall have been so notified by the Indemnified Party; or
- (iv) the Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either:
 - (a) that there may be specific defences available to it which are different from or additional to those available to the Indemnifying Party; or
 - (b) that such claim, action, suit or proceeding involves or could have a Material Adverse Effect upon it beyond the scope of this Agreement:

Provided that if Sub-clauses (ii), (iii) or (iv) of this Clause 30.4.3 shall be applicable, the counsel for the Indemnified Party shall have the right to direct the defence of such claim, demand, action, suit or proceeding on behalf of the Indemnified Party, and the reasonable fees and disbursements of such counsel shall constitute legal or other expenses hereunder.

30.5 No consequential claims

- 30.5.1 Notwithstanding anything to the contrary contained in this Article 30, the indemnities herein provided shall not include any claim or recovery in respect of any cost, expense, loss or damage of an indirect, incidental or consequential nature, including loss of profit, except as expressly provided in this Agreement.
- 30.5.2 The aggregate liability of either Party, under or in connection with the Agreement other than those provided under Clause 27.5 of this Agreement, shall not exceed the total PBG amount.

30.6 No Waiver

No failure or delay by the Lessor in exercising or enforcing any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise or enforcement of any right, remedy or power preclude any further exercise or enforcement thereof or the exercise or enforcement of any other right, remedy or power.

30.7 Survival on Termination

The provisions of this Article 30 shall survive Termination.

ARTICLE 31: UNFORESEEN EVENTS

31.1 Relief for Unforeseen Events

31.1.1 Upon occurrence and continuance of an unforeseen event, situation or similar circumstances not contemplated or referred to in this Agreement, and which could not have been foreseen by a prudent and diligent person (“**Unforeseen Event**”), any Party may by notice inform the other Party of the occurrence of such Unforeseen Event with the particulars thereof and its effects on the costs, expense and revenues of the Project. Within 15 (fifteen) days of such notice, the Parties shall meet and make efforts in good faith to determine if such Unforeseen Event has occurred and is continuing, and upon reaching agreement on occurrence thereof deal with it in accordance with the provisions of this Article 31.

31.1.2 Upon determination of the occurrence and continuation of an Unforeseen Event, the Parties shall make a reference to a conciliation tribunal which shall comprise 1 (one) member each to be nominated by both Parties from among persons who have been Judges of a High Court and the conciliators so nominated shall choose a chairperson who has been a Judge of the Supreme Court or Chief Justice of a High Court.

31.1.3 The conciliation tribunal referred to in this Clause 31.1.2 shall conduct preliminary proceedings to satisfy itself that:

- (i) an Unforeseen Event has occurred;
- (ii) the effects of such Unforeseen Event cannot be mitigated without a remedy or relief which is not contemplated in the Agreement; and
- (iii) the Unforeseen Event or its effects have not been caused by any Party by any act or omission on its part,

and if the conciliation tribunal is satisfied that each of the conditions specified hereinabove is fulfilled, it shall issue an order to this effect and conduct further proceedings under this Clause 31.1.

31.1.4 Upon completion of the conciliation proceedings referred to in this Clause 31.1, the conciliation tribunal may by a reasoned order, make recommendations and setting out the terms of reference, which shall be:

- (a) based on a fair and transparent justification;
- (b) no greater in scope than is necessary for mitigating the effects of the Unforeseen Event;
- (c) of no greater duration than is necessary for mitigating the effects of the Unforeseen Event; and
- (d) quantified and restricted in terms of relief or remedy.

31.1.5 Within 15 (fifteen) days of receiving the order and terms of reference referred to in Clause 31.1.4, the Parties shall meet and make efforts in good faith to accept, in whole or in part, the relief or remedy recommended by the conciliation tribunal for mitigating the effects of the Unforeseen Event and to procure implementation of the Project in accordance with the

provisions of this Agreement, by way of entering into a settlement agreement setting forth the agreement reached hereunder. The terms of such settlement agreement shall have force and effect as if they form part of this Agreement, and would deem to have modified the concerned terms of this Agreement, if any.

**ARTICLE 32:
DISPUTE RESOLUTION**

32.1 Dispute resolution

- 32.1.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified by either Party shall, in the first instance, be attempted to be resolved amicably, failing which the same shall be resolved in accordance with the Offshore Wind Energy Lease Rules, 2023.
- 32.1.2 Pending resolution of the dispute, the Parties shall continue to perform their respective obligations under this Agreement without prejudice to the outcome of the dispute.
- 32.1.3 This Agreement shall be construed and interpreted in accordance with and governed by the law of India, and the courts at New Delhi shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

32.2 Performance during the dispute

Pending resolution of the dispute, the Parties shall continue to perform their respective obligations under this Agreement without prejudice to the outcome of the dispute.

ARTICLE 33: DISCLOSURE

33.1 Disclosure of specified Documents

The Lessee shall make available for inspection by any authorized person of the Lessor, copies of this Agreement, free of charge, during normal business hours on all working days at the Seabed and at the Lessee's registered office.

33.2 Disclosure of Documents relating to safety

33.2.1 The Lessee shall make available for inspection by any authorized person of the Lessor, copies of all Documents and data relating to safety of the Project, free of charge, during normal business hours on all working days, at the Lessee's registered office. The Lessee shall make copies of the same available to any person upon payment of copying charges on a 'no profit no loss' basis.

33.2.2 Notwithstanding the provisions of Clauses 33.1 and 33.2.1, the Lessor shall be entitled to direct the Lessee, from time to time, to withhold the disclosure of Protected Documents (as defined hereinbelow) to any person in pursuance of the aforesaid Clauses.

Explanation:

The expression "**Protected Documents**" shall mean such of the Documents referred to in Clauses 33.1 and 33.2, or portions thereof, the disclosure of which the Lessor is entitled to withhold under the provisions of the Right to Information Act, 2005.

ARTICLE 34: MISCELLANEOUS

34.1 Waiver of Immunity

Each Party unconditionally and irrevocably:

- (a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
- (b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Party with respect to its assets;
- (c) waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and
- (d) consents generally in respect of the enforcement of any judgement or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement that may be made or given in connection therewith).

34.2 Depreciation and Interest

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

34.2.2 Unless otherwise specified, any interest payable under this Agreement shall accrue on a daily outstanding basis and shall be compounded on the basis of quarterly rests.

34.3 Delayed Payments

The Parties hereto agree that payments due from the Lessee to the Lessor under the provisions of this Agreement shall be made within the period set forth therein, and if no such period is specified, within 30 (thirty) days of receiving a demand along with the necessary particulars. In the event of delay beyond such period, the Lessee shall be liable in terms of Rule 22 of the Offshore Wind Energy Lease Rules, 2023, and recovery thereof shall be without prejudice to the rights of the Lessor under this Agreement including termination thereof.

34.4 Waiver

34.4.1 Waiver, including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:

- (a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions or of obligations under this Agreement;

- (b) shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and
- (c) shall not affect the validity or enforceability of this Agreement in any manner.

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

34.5 Liability for review of Documents and Drawings

Except to the extent expressly provided in this Agreement:

- (i) no review, comment or approval by the Lessor of any Project Agreement, Document or Drawing submitted by the Lessee nor any observation or inspection of the construction and O&M of the Project nor the failure to review, approve, comment, observe or inspect hereunder shall relieve or absolve the Lessee from its obligations, duties and liabilities under this Agreement, the Applicable Laws and Applicable Permits; and
- (ii) the Lessor shall not be liable to the Lessee by reason of any review, comment, approval, observation or inspection referred to in Sub-clause (i) above.

34.6 Exclusion of implied warranties etc.

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

34.7 Survival

Termination shall:

- (a) not relieve the Parties of any obligations hereunder which expressly or by implication survive termination hereof; and
- (b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such termination or arising out of such termination.

34.8 Entire Agreement

This Agreement and the schedules together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn. For the avoidance of doubt, the Parties hereto agree that any obligations of the Lessee arising from the request for selection document dated 02.02.2024 shall be deemed to form part of this Agreement and treated as such.

34.9 Severability

If for any reason whatever, any provisions of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions as nearly as is practicable to such invalid, illegal or unenforceable provision. In the event that the Parties are unable to reach an agreement as aforesaid, the dispute shall be resolved in the manner set forth in Article 32.

34.10 No partnership

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

34.11 Third parties

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

34.12 Successors and assigns

34.12.1 The Lessee shall not assign this Agreement, or any right, title and/ or interest in respect of the lease granted hereunder and/ or in respect of the area within the territorial waters or the continental shelf of India covered by such lease to any person, save and except with the prior consent in writing of the Lessor, which consent the Lessor shall be entitled to decline without assigning any reason.

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

34.13 Notices

34.13.1 Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall be given by hand delivery, recognized international courier, mail or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set out below:

(a) If to the Lessor:

Kind Attention: _____
Address: _____
Telephone No.: _____
Fax: _____
Email: _____

(b) If to Lessee:

Kind Attention: _____

Address: _____
Telephone No.: _____
Fax: _____
Email: _____

34.13.2 In the case of the Lessee, be given by facsimile or e-mail and by letter delivered by hand to the address given and marked for attention of the person set out above or to such other person as the Lessee may from time to time designate by notice to the Lessor; provided that notices or other communications to be given to an address outside New Delhi may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by facsimile or e-mail to the number as the Lessee may from time to time designate by notice to the Lessor.

34.13.3 In the case of the Lessor, be given by facsimile or e-mail and by letter delivered by hand and be addressed to the [*insert designation*] of the Lessor with a copy delivered to the Lessor Representative or such other person as the Lessor may from time to time designate by notice to the Lessee; provided that if the Lessee does not have an office in New Delhi it may send such notice by facsimile or e-mail and by registered acknowledgement due, air mail or by courier.

34.13.4 Any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered and in all other cases, it shall be deemed to have been delivered on the actual date and time of delivery; provided that in the case of facsimile or e-mail, it shall be deemed to have been delivered on the working day following the date of its delivery.

34.14 Language

All notices required to be given by one Party to the other Party and all other communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

34.15 Counterparts

This Seabed lease agreement may be executed in 2 (two) counterparts, each of which, when executed and delivered, shall constitute an original of this Agreement.

IN WITNESS WHEREOF the Parties have executed and delivered this Seabed lease agreement as of the date first above written.

For and on behalf of Lessor by

For and on behalf of Lessee by

(Signature) _____

(Signature) _____

Name: _____

Name: _____

Designation: _____

Designation: _____

IN PRESENCE OF _____

IN PRESENCE OF _____

(Signature) _____

(Signature) _____

Name: _____

Name: _____

Address: _____

Address: _____

SCHEDULE I
DESCRIPTION OF THE SEABED

Zone	Site #	Area (Km ²)	Estimated Output Densities		
			4.5 MW/km ²	5.0 MW/Km ²	6.0 MW/Km ²
			Estimated Project Capacities (MW)		
Zone B (Phase I) (3.7 – 5 GW)	2	203	914	1015	1218
	3	209	941	1045	1254
	4	208	936	1040	1258
	7	208	936	1040	1248

Site #	Latitude	Longitude
2	08° 03' 47.72371698" N	077° 41' 35.96290002" E
	08° 03' 57.00346702" N	077° 47' 33.44613731" E
	07° 55' 30.88471532" N	077° 50' 33.38988611" E
	07° 52' 36.82018998" N	077° 45' 22.52165955" E
	08° 03' 47.72371698" N	077° 41' 35.96290002" E
3	08° 04' 02.28905987" N	077° 48' 31.78896036" E
	08° 09' 24.80536546" N	077° 52' 46.05191377" E
	07° 59' 16.22684932" N	077° 57' 15.96460351" E
	07° 56' 03.13526471" N	077° 51' 25.35945949" E
	08° 04' 02.28905987" N	077° 48' 31.78896036" E
4	08° 09' 49.11076938" N	077° 53' 23.24046568" E
	08° 12' 24.25027828" N	077° 58' 05.34119981" E
	08° 02' 31.37124854" N	078° 03' 04.96530421" E
	07° 59' 44.48055006" N	077° 58' 06.18390086" E
	08° 09' 49.11076938" N	077° 53' 23.24046568" E
7	08° 12' 37.91193679" N	077° 58' 43.82592826" E
	08° 15' 13.82133421" N	078° 03' 29.58241167" E
	08° 05' 44.39836787" N	078° 08' 50.79919045" E
	08° 02' 53.41435470" N	078° 03' 48.41315508" E
	08° 12' 37.91193679" N	077° 58' 43.82592826" E

Table 1: Blocks on offer for development of Projects

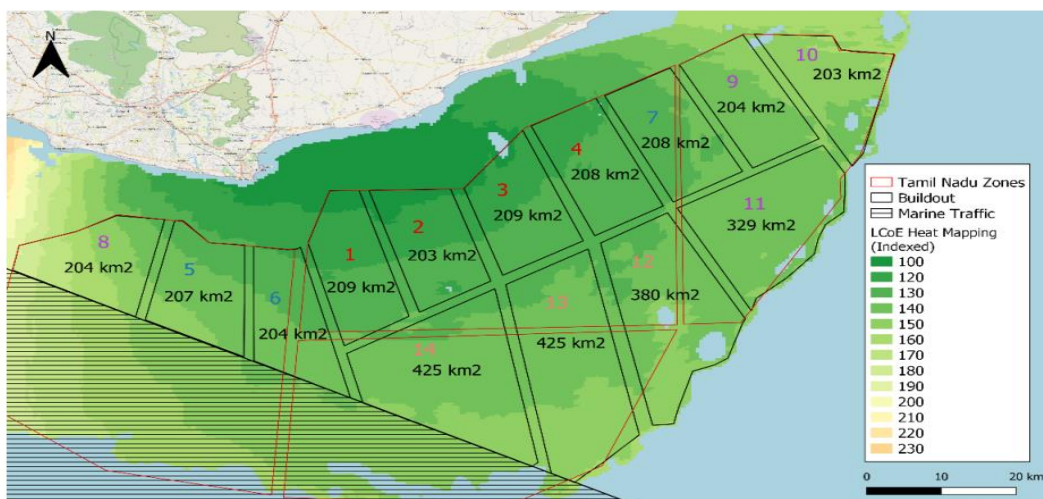


Fig. 02: Blocks for Offshore Wind Projects in TN coast

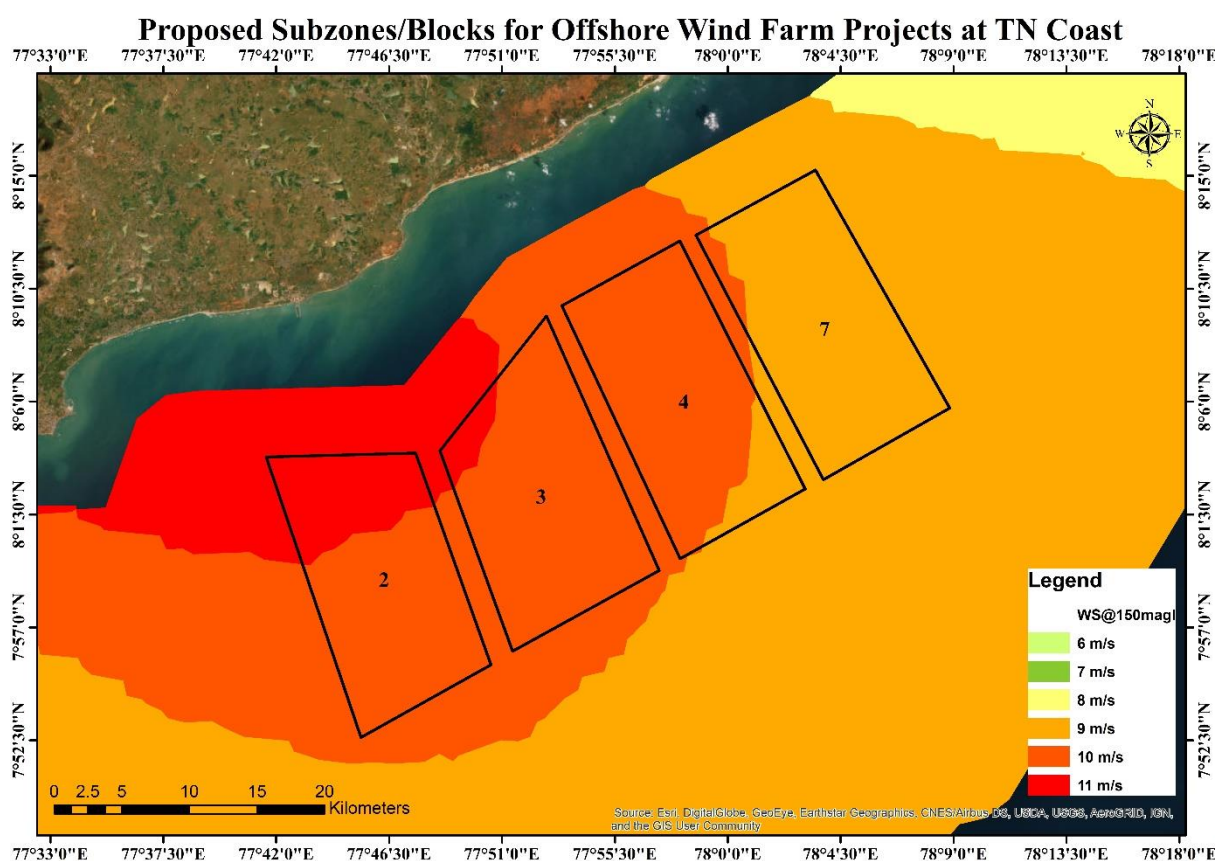


Fig. 03: Proposed Blocks for Offshore Wind Projects in TN coast

Block 2	Boundary Points	Latitude	Longitude
	1	08° 03' 47.72371698" N	077° 41' 35.96290002" E
	2	08° 03' 57.00346702" N	077° 47' 33.44613731" E
	3	07° 55' 30.88471532" N	077° 50' 33.38988611" E

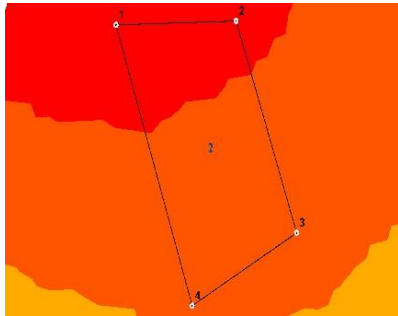
Block 2	Boundary Points	Latitude	Longitude
	4	07° 52' 36.82018998" N	077° 45' 22.52165955" E

Fig. 04: Block 2

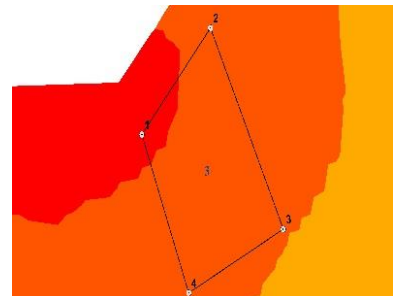
Block	Boundary ID	Latitude	Longitude
	1	08° 04' 02.28905987" N	077° 48' 31.78896036" E
	2	08° 09' 24.80536546" N	077° 52' 46.05191377" E
	3	07° 59' 16.22684932" N	077° 57' 15.9646035 1" E
	4	07° 56' 03.13526471" N	077° 51' 25.35945949" E

Fig. 05: Block 3

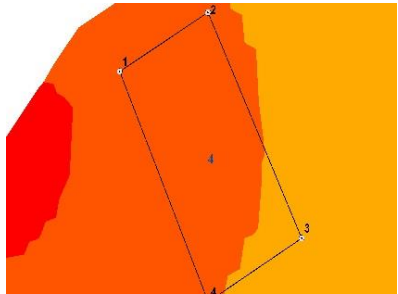
Block	Boundary ID	Latitude	Longitude
	1	08° 09' 49.11076938" N	077° 53' 23.24046568" E
	2	08° 12' 24.25027828" N	077° 58' 05.34119981" E
	3	08° 02' 31.37124854" N	078° 03' 04.9653042 1" E
	4	07° 59' 44.48055006" N	077° 58' 06.18390086" E

Fig. 06: Block 4

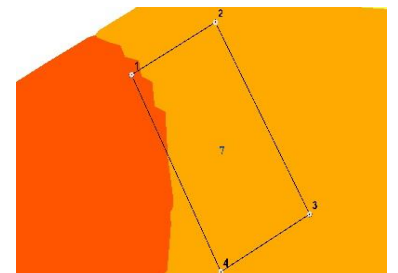
Block	Boundary ID	Latitude	Longitude
	1	08° 12' 37.91193679" N	077° 58' 43.82592826" E
	2	08° 15' 13.82133421" N	078° 03' 29.58241167" E
	3	08° 05' 44.39836787" N	078° 08' 50.79919045" E
	4	08° 02' 53.41435470" N	078° 03' 48.41315508" E

Fig. 07: Block 7

**SCHEDULE II:
FORMAT OF BANK GUARANTEE**

This deed of guarantee (the “**Bank Guarantee**”) is executed on this the _____ day of _____ at _____ by _____ having its head/ registered office at _____ (hereinafter referred to as the “**Bank**”), which expression shall unless it be repugnant to the subject or context thereof include successors and assigns;

In favour of

The President of India, represented by _____⁶, Ministry of New and Renewable Energy, Government of India, having its office at Atal Akshay Urja Bhawan, Lodhi Road, New Delhi, 110003 (hereinafter referred to as the “**Lessor**”), which expression shall, unless repugnant to the context or meaning thereof include its administrators, successors or assigns.

WHEREAS

- A. MNRE and _____, a company incorporated under the provisions of the Companies Act, 2013 and having its registered office at _____ (the “**Lessee**”), have entered into a Seabed Lease Agreement dated _____ setting out certain stipulations for grant of a lease (**Seabed lease**) by MNRE in favour the Lessee for the purpose of undertaking study/survey, construction, operation and maintenance of an offshore wind power project;
- B. In terms of the aforementioned lease agreement dated _____, the Lessee is required to furnish to the Lessor, an unconditional and irrevocable bank guarantee for an amount Rs. _____ (the “**Guarantee Amount**”) as a refundable security deposit; and
- C. At the request of the Lessee, the Bank has agreed to provide guarantee, being these presents by way of security in terms of the aforementioned lease agreement dated _____.

NOW, THEREFORE, the Bank hereby affirms as follows:

- 1. The Bank hereby unconditionally and irrevocably agrees and undertakes to pay to the Lessor, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Lessee, such sum or sums up to an aggregate sum of the Guarantee Amount as the Lessor shall claim, without the Lessor being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.
- 2. A letter from the Lessor, under the hand of an officer not below the rank of _____, that the Lessee has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Seabed Lease Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Lessor shall be the sole judge as to whether the Lessee is in default in due and faithful performance of its obligations under the Seabed Lease Agreement and its decision that the Lessee is in default shall be final, and binding on the Bank, notwithstanding any differences between the Lessor and the Lessee, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Lessee for any reason whatsoever.
- 3. In order to give effect to this Bank Guarantee, the Lessor shall be entitled to act as if the Bank was the principal debtor and any change in the constitution of the Lessee and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Bank Guarantee.

⁶ Insert designation of authorised officer.

4. It shall not be necessary, and the Bank hereby waives any necessity, for the Lessor to proceed against the Lessee before presenting to the Bank its demand under this Bank Guarantee.
5. The Lessor shall have the liberty, without affecting in any manner the liability of the Bank under this Bank Guarantee, to vary at any time, the terms and conditions of the Seabed Lease Agreement or to extend the time or period for the compliance with, fulfilment and/ or performance of all or any of the obligations of the Lessee contained in the Seabed Lease Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Lessor against the Lessee, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Seabed Lease Agreement and/or the securities available to the Lessor, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Lessor of the liberty with reference to the matters aforesaid or by reason of time being given to the Lessee or any other forbearance, indulgence, act or omission on the part of the Lessor or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Bank Guarantee and the Bank hereby waives all of its rights under any such law.
6. This Bank Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Lessor in respect of or relating to the Seabed Lease Agreement or for the fulfilment, compliance and/or performance of all or any of the obligations of the Lessee under the Seabed Lease Agreement.
7. The Bank undertakes not to revoke this Bank Guarantee during its currency, except with the previous express consent of the Lessor in writing, and declares and warrants that it has the power to issue this Bank Guarantee and the undersigned has full powers to do so on behalf of the Bank.
8. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at the _____ office of the Bank, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Lessor that the envelope was so posted shall be conclusive.
9. This Bank Guarantee shall come into force with immediate effect and shall remain in force and effect for the period set forth in the Seabed Lease Agreement.

Signed and sealed this _____ day of _____, 20_____ at _____.

SIGNED, SEALED AND DELIVERED

For and on behalf of the BANK by:

(Signature)

(Name)

(Designation)

(Address)

SCHEDULE III: CONSTRUCTION REQUIREMENTS

DEFINITIONS AND INTERPRETATION

1.1 Terms and Definitions

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

1.1.1 Certification

Procedure by which an accredited Certification body gives written assurance that a product, process, or service conforms to specified requirements, also known as conformity assessment.

1.1.2 Certification body

Accredited body that conducts certification of conformity for wind turbines. Certification Body (CB) shall be NIWE, or any CB accredited by NABCB as per ISO/IEC 17065 or recognized as RECB under IECRE.

1.1.3 Commissioning

Process that encompasses functional safety checks, connecting the wind turbine to the grid and putting it into commercial operation.

1.1.4 Inspection

Systematic examination of the extent to which a product, process or service fulfils specified requirements by means of measuring, observing, testing, or gauging the relevant characteristics.

1.1.5 Installation

Process that encompasses site fabrication, assembly, and erection

1.1.6 Project Certification

Project Certification is procedure by which a certification body gives written assurance that one or more specific wind turbines including support structure and possibly other installations are in conformity with requirements for a specific site. The project certification includes Pre-commissioning, Installation & Commissioning and Post commissioning evaluation of the project.

1.1.7 Project certificate

Document issued upon successful completion of project certification.

1.1.8 Type Certification

Type Certification of wind turbines confirms that the wind turbine is designed, documented, and manufactured in conformity with design assumption, specific standards and other technical requirements.

1.1.9 Type certificate

Document issued upon the successful completion of type certification.

1.2 Symbols and abbreviations

1.2.1 Symbols

The relevant symbols contained in IS/IEC are applicable.

1.2.2 Abbreviations

The following abbreviations are used in Schedule.

Short form	In Full
BIS / IS	Bureau of Indian Standards / Indian Standards
CB	Certification Body
IEC	International Electro technical commission
IECRE	International Electro technical commission for Renewable Energy
MNRE	Ministry of New and Renewable Energy
NIWE	National Institute of Wind Energy
WT	Wind Turbine
IEGC	The Indian Electricity Grid Code
REMC	Renewable Energy Management Center
SLDC/RLDC	State / Regional Load Dispatch Centre

1.3 Interpretation

All IS/IEC/IECRE, and other standards specified are to be complied (all but not limited to) with as amended and revised. LESSEE must ensure that all the requirements specified conform to the best industry standards and good practices.

Nothing in this schedule shall release the LESSEE from its obligation to always comply with the Laws of the Country.

Construction requirements

An OWT installation is an activity during which multiple parts of a wind turbine are assembled, erected, and finally connected to the grid. The LESSEE must undertake planning, installation, erection, commissioning, operation, and maintenance of an offshore wind turbine.

The following list of requirements are to be met during Offshore Wind Turbine construction.

2.1 Site Feasibility studies:

The Preliminary Survey and Studies should be completed successfully by the LESSEE. A Detailed Project Report (DPR) must be prepared as per this Agreement outlining all the necessary steps and timeline from planning, offshore site preparation, logistics, construction, operation and maintenance and decommissioning strategy. LESSEE must follow as per micro siting guidelines in vogue during the preparation of offshore wind farm layout in the DPR. L2 schedule activities must be specified, and the corresponding timelines and milestones shall be followed as per the LESSOR. The schedules will be reviewed periodically to make sure the LESSEE is conforming to the timelines specified in DPR. All the corresponding reports and data need to be submitted to relevant authorities. Once acknowledged and approved, any further changes in the DPR will be after consultation with the relevant authority.

2.2 Permits and Regulatory approvals:

LESSEE must ensure approval from various regulatory agencies authorized by the Central and State Governments, in the form of Licenses, Permits, or Authorizations, are acquired for the establishment and operation of the Offshore Wind Farm. LESSEE must comply with all requisites from the regulatory bodies for the approval process and provide relevant documentation wherein necessary.

In addition, LESSEE must ensure other key permits and licenses that may be applicable to the Project are acquired such as

- Permits and approvals for all aspects of transportation vessels.
- Helicopter operations relevant to the structural safety of landing platforms
- Marking complies with relevant national / international regulations and codes.

LESSEE must make sure that all relevant permits and other regulatory approvals are completed before the DPR for the Project is finalized.

2.3 Environmental Impact assessments and management

In addition to Site preparation and feasibility studies, environmental assessments, environmental management plan are to be completed by LESSEE in the stipulated period and included in the Detail Project Report (DPR). The LESSEE shall develop and maintain an environmental impact monitoring program for the Offshore Wind Farm pursuant to requirements set out in the relevant approvals, licenses, and permits, pursuant to relevant legislation. LESSEE must comply towards key environmental and social laws and regulations that would be applicable to implementation of the construction of Offshore farm.

2.4 Reference Standards

LESSEE must ensure that all the requirements of OWT (Offshore Wind Turbines) conform to the best industry standards suitable to site specific conditions (all but not limited to) as amended and revised. LESSEE can also refer to equivalent international standards as applicable.

IS/IEC, ISO, IECRE Standards

IS/IEC 61400-1 Design requirements for structural integrity of wind turbines.

IEC 61400-3-1 Fixed offshore wind turbines.

IEC 61400-3-2 Floating offshore wind turbines.

IS/IEC 61400-22 Conformity testing and certification.

IS/IEC 61400-25 (Series) Communications for monitoring and control of wind power plants

IEC TS 61400-29 Marking and lighting of wind turbines

IEC TS 61400-30 Safety of Wind Turbine Generator Systems

IECRE OD-502 (Project Certification Scheme)

IECRE OD-501 (Type and Component Certification Scheme)

IEC 61000-6 (Series) Electromagnetic compatibility (EMC)

ISO 29400 Ships and marine technology — Offshore wind energy — Port and marine operations

2.5 Project Certification requirements

The LESSEE should obtain project certification for the offshore wind farm as per IECRE – OD- 502 or IS/IEC 61400-22 by an Internationally Accredited Certification Body. This should include all optional modules mentioned in the Standard/Operating Document.

Project Certification should be maintained throughout the lifetime of the wind farm. LESSEE shall submit the project certificate, evaluation reports and conformity statements to the LESSOR.

2.6 Grid connectivity requirements

LESSEE shall enter into Grid Connection Agreement with Central Transmission Utility for evacuation of Power from the Offshore Wind Farm. The LESSEE is responsible for evacuation of power from the offshore wind farm to the offshore substation. The Central Transmission Utility (or CTU), through its identified Transmission Licensee, shall be responsible for developing the offshore pooling substation and the evacuation infrastructure from offshore substation to the onshore pooling substation, including the export cables.

LESSEE must ensure that the Offshore Project fulfills the requirements of Technical standards for connectivity to the grid issued by CEA (Central Electricity Authority) and Technical requirements stipulated by CTU, SLDC/RLDC, IEGC, REMC.

2.7 Management of SCADA Systems

LESSEE must ensure that the SCADA system installed on Offshore WTs, records parameters that may show signs of operational issues in WT. All SCADA data from the offshore Wind farm shall be shared with LESSOR. The LESSEE shall provide on recurrent basis, monthly performance report (including Operating and Maintenance) on Offshore WTs to the LESSOR throughout the operation of the Offshore Wind farm. Furthermore, LESSEE shall share the requisite details such for the online registry of Wind

Turbines, managed by LESSOR. In addition, any Met-Ocean measurements carried out during the operation of the Offshore Wind Farm shall be shared with LESSOR.

LESSEE must adhere to the terms and conditions from Ministry of Defense to WTG Operators, towards providing SCADA based remote control system at nearest Air Force Station.

2.8 Interference with other signals

LESSEE must ensure all signals for telecommunication and data transmission are not affected due to the construction and operation of the windfarm. Furthermore, LESSEE must also assess potential impacts any signal interference caused by the presence of wind turbines and possible mitigation measures if necessary.

2.9 Logistics and execution

LESSEE must exercise caution while planning logistics and commissioning of the offshore wind turbine under unusual conditions, such as hail, lightning, high winds, earthquake, high waves, extreme tidal conditions, etc.

LESSEE should hire trained personnel for offshore wind turbines installation. The personnel should be instructed as per the installation manual clearly describing installation requirements for the wind turbine structure and equipment.

Detailed engineering installation should be carried out by LESSEE. LESSEE should follow ISO 29400 as guidance for the planning and engineering of port and marine operations associated with the transport, installation, and maintenance of offshore wind turbines.

LESSEE must ensure that all logistical planning and execution are conformed to project timelines as specified in Detailed Project Report (DPR) before construction.

2.10 Recycling of offshore wind turbines

The LESSEE shall commit to a recycling program in Detailed Project Report (DPR) for the Offshore Wind Farm project. The LESSEE shall follow all applicable recycling guidelines/standards/regulations in vogue at the time of the decommissioning.

2.11 Data Sharing

LESSEE shall not share data with any third party except in relation to executing the offshore wind energy project. Prior permission shall be taken from the Integrated Head Quarter (IHQ Navy) before sharing of any data; LESSEE must comply with Department of Science and Technology's (DST) Geo Spatial guidelines data sharing guidelines in vogue. LESSEE shall share real-time surveillance information with the Coast Guard, Navy, and other agencies, identified by the Central Government.

2.12 Cyber Security

LESSEE shall comply with Cyber Security guidelines/directives/regulations issued by Ministry of Power / relevant authority the from time to time, and the technical standards for communication system in Power Sector laid down by the relevant authority.

2.13 Insurance

The LESSEE should ensure the offshore wind project is insured. All project insurances are appropriately arranged and administered to protect all parties best interest and to meet risk profiling including (but not limited to) Construction All Risk (CAR), Third Party Public Liability (TPL), Professional indemnity (PI) and Difference In Conditions (DIC) policies where appropriate.

Subcontractors, major suppliers, and consultants should hold appropriate insurance cover, in relation to all project insurance matter, including vehicles for transport, plant and contractor's equipment, off-site third-party liability and workers compensation.

2.14 Safety of workforce

For installation, LESSEE must facilitate personal protective equipment for installation personnel wherein necessary. This may include all necessary gear but not limited to personal protective equipment such as eye, foot, hearing, and head protection. All personnel climbing towers, or working above ground or at a water level, should be trained in such work and should use approved safety belts and safety climbing aids. Other safety devices include survival suits and buoyancy aids. All equipment shall be kept in good repair and be suitable for the task for which it is intended. Cranes, hoists and lifting equipment, including all slings, hooks, and other apparatus, shall be adequate for safe lifting and approved.

LESSEE must adhere to all the safety requirements as prescribed in this Agreement and Schedule IV.

SCHEDULE IV: SAFETY REQUIREMENTS

1 Health and Safety

Offshore wind farm construction and operations may pose significant health and safety risks for (contractor) the working personnel and should always be handled with great care to create a safe working environment. The LESSEE should understand all offshore wind health and safety risks, national and international guidelines to mitigate such risks and follow Good Industry practices and procedures for a typical offshore wind farm project.

The offshore wind turbine facility site shall be prepared, maintained, operated, and managed by the LESSEE so that work can be performed safely and efficiently. This should include procedures to prevent unauthorized access where appropriate.

2 Health and Safety guidelines

Health and safety guidelines help employers to mitigate risks. The LESSEE must abide by all the regulations put forward by The Occupational Safety, Health and Working conditions code, 2020 ('OSHW') Code of India which regulates the occupational safety, health and working conditions of the persons employed in an establishment.

- Duties of LESSEE inter alia include ensuring that the workplace is free from hazards, comply with occupational safety and health standards, providing annual health examination or tests, issuing a letter salient feature of appointment to every employee, compulsory reporting of diseases and accidents etc.
- Designers, manufacturers, importers, and suppliers of any article used in an establishment are duty bound to ensure such article is safe and does not pose any risk to health of workers.
- The LESSEE is responsible for maintaining health, safety and working conditions such as hygiene, cleanliness, ventilation, humidification and providing arrangements for treatment of wastes and effluents in the establishment.

Other notable Indian safety regulations as amended and revised to comply include,

- National policy on Health, Safety and Environment at Workplace
- Dock workers (Safety, Health, and Welfare) Act 1986 and Regulations, 1990
- The building and other construction workers (Regulations of Employment and Condition of Service) Act, 1996
- The Petroleum and Natural Gas (Safety in Onshore Operations) Rules, 2009
- The Petroleum and Natural Gas (Code of Practice for Emergency Response and Disaster Management Plan) Regulations, 2010
- The Environment (Protection) Act, 1986 (amended 1991) and The Environment (Protection) Rules, 1986 (amended 2010)

LESSEE can also seek international guidelines from agencies such as European Agency for Occupational Safety and Health at Work (EU-OSHA), Global Offshore Wind Health and Safety Organization (G+) and World Bank in matters of Health and Safety.

Furthermore, LESSEE is required to follow all accepted common health and safety guidelines followed nationally and internationally. The following section provides a brief description of the most common health and safety guideline categories:

- **Investigation and reporting in a case of an incidents** - LESSEE must set or follow the

procedures and formal requirements in a case of an incident. This includes recommendations on interviewing the inspection personnel at the site and filing and managing the collected information.

- **Marine roles for small workboats-** LESSEE must set or follow the guidelines for the staff of the offshore wind industry operating on small workboats (special requirements and areas of competence of the operation), with regards to local requirements.
- **Safe lifting** - LESSEE must set or follow the guidelines for lifting jobs in the marine environment. Good industry practice for offshore operations lays out rules for equipment, maintenance, and safe operation.
- **Toolbox talks** - is a guideline that gives recommendations for the phase right before the actual job at the offshore wind park. LESSEE must ensure that Toolbox talks take place regularly or at shift change and should follow the four basic requirements of timing, attendance, observation, and knowledge.
- **Working at height,** LESSEE must set or follow guidelines developed for the offshore oil and gas industry to reduce the number of work at height accidents.
- **Risk assessment,** LESSEE must set or follow recommendations for the continuous mitigation and controlling of risks in the offshore work environment. The Risk assessment must be written document and should include learnings from toolbox talk and cover all areas within the offshore operation.

3 Health and Safety Risks

A hazard is a situation or an activity with the potential to harm people, environment, or property.

The LESSEE must allow for a systematic assessment and handling; all dangerous tasks must be associated with the potential hazards that might occur during the project work. The LESSEE should identify and mitigate existing and all potential hazards.

Table 1: Hazards and dangerous activities in offshore wind projects

Hazards	Activities & Operations
Access and egress	Aviation
Confined spaces	Cable laying and entry
Electricity	Lifting
Ergonomics	Marine co-ordination
Fire	Navigation
Geological unknowns	Piling and grouting
Hazardous substances	Ports and mobilization
Weather and sea-conditions	Remote working
Noise	Subsea operations
Unexploded ordnance	Vessel operations
Vibration	Waste and spillage management
Height	

The LESSEE must assess all the risks associated with Offshore wind farm construction and operations based on occurrence and severity of the risk. A complete risk assessment including all possible events and steps must be completed. All tasks must be categorized into risk categories – Low, Medium, and High. LESSEE must mitigate high risk into an implementation of alternate method Low or Medium risk if in case possible. LESSEE must identify all hazards and formulate an action plan on dealing with them. A sample Task Risk Assessment Template is given in below Table.

Table 2: Example Task Risk Assessment

PROBABILITY OF OCCURRENCE						
S E V E R I T Y		A	B	C	D	E
	1	LOW	LOW	LOW	LOW	MED
	2	LOW	LOW	LOW	MED	HIGH
	3	LOW	LOW	MED	HIGH	HIGH
	4	LOW	MED	HIGH	HIGH	HIGH
	5	MED	HIGH	HIGH	HIGH	HIGH

PROBABILITY OF OCCURRENCE	SEVERITY	RISK
A May never occur	1 Negligible	Low = No immediate action required, proceed with care
B May occur	2 Moderate	
C Might occur	3 Serious	Medium = Review & implement preventative measures
D May occur infrequently	4 Major	
E Will probably occur	5 Catastrophic	High = Unacceptable. Find alternative method.

SEVERITY	HUMAN	ENVIRONMENT	MATERIALS / EQUIPMENT
NEGLIGIBLE	No or minor injury.	No or insignificant clean up naturally and dispersed	No or insignificant damage to equipment or materials
MODERATE	One lost time accident, with no loss of part of the body, or prolonged disability	Clean up requires less than 1day	Damage to equipment or materials with lost time of 1 day production
SERIOUS	Multiple lost time accidents. One injury with loss of part of body, or with permanent disability	Clean up requires approx. 1 week	Significant damage to local area or essential equipment
MAJOR	One fatal injury. Several victims with loss of part of the body, or with permanent disability	Clean up requires approx. 1 month	Significant damage to local area or essential equipment which stops the work until a later date

CATASTROPHI C	Several fatal injuries	Clean up requires more than 1 month	Extensive damage to local area or essential equipment which stops the work totally
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Table 3: Task Risk Assessment Table

ACTIVITY	HAZARD	CONSEQUENCE	INITIAL RISK	RISK CONTROL MEASURE	RESIDUAL RISK

4 Health and Safety Standards

LESSEE required to follow all accepted common health and safety standards, nationally and internationally. OISD (Oil Industry Safety Directorate) is a technical directorate under the Ministry of Petroleum and Natural Gas that formulates and coordinates the implementation of a series of self-regulatory measures aimed at enhancing the safety measures in Offshore in India. Following are the OISD standards that may apply to Offshore Wind - Health and Safety areas.

Table 4: Health and Safety Standards in offshore projects

Offshore wind – Health and Safety areas	OISD standards
Safety Management System	OISD-GDN-206 Guidelines on Safety Management System in Petroleum Industry.
Permit to Work	OISD-STD-105: Work Permit System
Hazardous chemicals	OISD-STD-114: Hazardous chemicals and their handling.
Personal Protective Equipment (PPE)	OISD-STD-155: PPE
Excess and Egress	OISD-GDN-192: Safety Practices during construction
Working at heights	
Confined spaces	
Handling and Lift equipment	
Helicopter transportation	
Work above water	
Job Safety Analysis (JSA)	OISD –GDN-207: Contractor's Safety
Incident Reporting and Investigation System	OISD-STD-145: Internal Safety Audits
Safety equipment and PPEs	OISD-STD-155
Static Electricity / electrical systems	OISD-RP-110: Recommended practice on static electricity OISD-RP-149: Design aspects for safety in electrical systems
Risk assessment, Hazards and Control system	OISD-GDN-232: Identification of hazards and control measures in E&P (exploration and production) industry.
Drilling and workover Rigs	OISD-GDN-218: Guidelines for safe rig-up and rig –down of drilling and work-over rigs. OISD-STD-190: Derrick floor operations (Onshore drilling / workover rigs)

Emergency Response and preparedness	OISD-GDN-227: Emergency Response and Preparedness in E&P industry.
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5 Health and Safety Procedures

LESSEE should always implement a Health and Safety policy (or management system), including concrete working procedures to mitigate high risk activities in the field. Health and safety procedures are often the compilation of generic health and safety guidelines into concrete procedures on project level.

LESSEE appoint a professional Health and Safety manager or coordinator to set-up a project specific Health and Safety policy or management system, including project specific procedures.

Those procedures involve training and certification of employees and the establishment of standard operating procedures for the mitigation of identified risks. Factors of success in the evolution and implementation of health and safety procedures are transparency, communication, the involvement of workers and continuous efforts towards improvement. Table 5 below reports the typical high-risk activities in offshore wind projects that require clear working procedures.

Table 5: Typical high-risk activities in offshore wind projects that require clear working procedures.

High risk activities
Working at height and rope access
Working in confined spaces
Working with electricity (low voltage and high voltage)
Hot work (welding, flame cutting, grinding etc.)
Heavy lifting (>500 KG) and odd size lifting onshore and offshore
People transfer at sea (vessel-to-vessel and vessel-to-structure)
Helicopter transfers and personnel winching operations
Jack up / DP (dynamic position) operations
Diving activities
Working during adverse weather conditions
Last minute changes in working methods

6 Work Plan, Work Permit and Management of Change

LESSEE must ensure that for all work activities, a Work Method Statement (WMS) and Task Risk Assessment (TRA) is included. All WMS and TRA must be reviewed and approved by the LESSEE (or representative of the LESSEE) as a permit to issue the work. LESSEE must also ensure that associated hazards and risks are properly identified and managed via Management of Change (MOC). This procedure should capture appropriate review, approval, implementation and tracking within the LESSEE.

In addition to Following Health and Safety Procedures, LESSEE must ensure all workplace hazards recorded via Health and Safety reports by employees. All issues must be addressed with utmost priority, potentially saving lives while reducing the cost and lost time associated with injuries. LESSEE must keep good record keeping of Health and Safety reports to remain compliant with local legislation. LESSEE must be obliged to share health and safety reports during periodic inspections and checks from relevant local and national safety authorities.

7 Emergency response

LESSEE for its employees (or contractors) must set or have in place an emergency response procedure (ERP) to reflect the requirements of their scope of work and in line with standard practices. LESSEE should always make sure to align this procedure with the relevant project specific emergency procedures.

8 Environment safety standards

LESSEE must ensure that all accepted environment safety standards should be complied throughout the duration of offshore Wind activity such as

- The Water (Prevention & Control of Pollution) Act, 1974 (The Water Act), as amended.
- Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016
- The Air (Prevention and Control of Pollution) Act, 1981, as amended.
- Noise pollution standards outlined under Environmental Protection Act 1986.

SCHEDULE V: SUBSTITUTION AGREEMENT

This substitution agreement (the “**Substitution Agreement**”) is made as of the _____ day of _____, 20__ at _____:

BY AND BETWEEN

1. **The President of India**, represented by _____⁷, Ministry of New and Renewable Energy, Government of India, having its office at Atal Akshay Urja Bhawan, Lodhi Road, New Delhi, 110003 (hereinafter referred to as the “**Lessor**”, which expression shall, unless repugnant to the context or meaning thereof, include its successors and assigns);
2. **M/s _____**, a company incorporated under the provisions of the Companies Act, 2013 and having its registered office at _____, (hereinafter referred to as the “**Lessee**” which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns and substitutes); and
3. _____⁸, having its registered office at _____, acting for and on behalf of the Senior Lenders as their duly authorized agent with regard to matters arising out of or in relation to this Agreement (hereinafter referred to as the “**Lenders’ Representative**”, which expression shall unless repugnant to the context or meaning thereof include its successors and substitutes).

WHEREAS:

- A. The Lessor has entered into a Seabed Lease Agreement dated _____ with the Lessee (the “**Seabed Lease Agreement**”) for the Project, and a copy of which is annexed hereto and marked as Annex A to form part of this Agreement.
- B. Senior Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.
- C. Senior Lenders have requested the Lessor to enter into this Substitution Agreement for securing their interests through assignment, transfer and substitution of the Seabed Lease to a Nominated Company (hereinafter defined) in accordance with the provisions of this Agreement and the Seabed Lease Agreement.
- D. In order to enable implementation of the Project including its financing, construction, operation and maintenance, the Lessor has agreed and undertaken to transfer and assign the Seabed Lease to a Nominated Company in accordance with the terms and conditions set forth in this Agreement and the Seabed Lease Agreement.

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

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

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

⁷ Insert designation of authorised officer.

⁸ Insert name and particulars of Lenders’ Representative.

“Agreement” means this Substitution Agreement and any amendment thereto made in accordance with the provisions contained in this Agreement;

“Financial Default” means occurrence of any breach of the terms and conditions of the Financing Agreements or a continuous default in Debt Service by the Lessee for a minimum period of 3 (three) months;

“Lenders’ Representative” means the person referred to as the Lenders’ Representative in the foregoing Recitals;

“Nominated Company” means a company, incorporated under the provisions of the Companies Act, 2013, selected by the Lenders’ Representative, on behalf of Senior Lenders, and proposed to the Lessor for assignment/transfer of the Seabed Lease as provided in this Agreement;

“Notice of Financial Default” shall have the meaning ascribed thereto in Clause 3.2.1; and

“Parties” means the parties to this Agreement collectively and **“Party”** shall mean any of the Parties to this Agreement individually.

1.2 Interpretation

- (a) References to Lenders’ Representative shall, unless repugnant to the context or meaning thereof, mean references to the Lenders’ Representative, acting for and on behalf of Senior Lenders.
- (b) References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.
- (c) The words and expressions beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the words and expressions used in this Agreement and not defined herein but defined in the Seabed Lease Agreement shall, unless repugnant to the context, have the meaning ascribed thereto in the Seabed Lease Agreement.
- (d) The rules of interpretation stated in the Seabed Lease Agreement shall apply, *mutatis mutandis*, to this Agreement.

2. ASSIGNMENT OF RIGHTS AND TITLE

The Lessee hereby agrees to assign the rights, title and interest in the Seabed Lease to, and in favour of, the Lenders’ Representative pursuant to and in accordance with the provisions of this Agreement and the Seabed Lease Agreement by way of security in respect of financing by the Senior Lenders under the Financing Agreements.

3. SUBSTITUTION OF THE LESSEE

3.1 Rights of substitution

- 3.1.1 Pursuant to the rights, title and interest assigned under Clause 2, the Lenders’ Representative shall be entitled to substitute the Lessee by a Nominated Company under and in accordance with the provisions of this Agreement and the Seabed Lease Agreement.
- 3.1.2 The Lessor hereby agrees to substitute the Lessee by endorsement on the Seabed Lease

Agreement in favour of the Nominated Company selected by the Lenders' Representative in accordance with this Agreement. For the avoidance of doubt, the Senior Lenders or the Lenders' Representative shall not be entitled to operate and maintain the Project as Lessee either individually or collectively.

3.2 Substitution Upon occurrence of Financial Default

- 3.2.1 Upon occurrence of a Financial Default, the Lenders' Representative may issue a notice to the Lessee (the "**Notice of Financial Default**") along with particulars thereof, and send a copy to the Lessor for its information and record. A Notice of Financial Default under this Clause 3.2.1 shall be conclusive evidence of such Financial Default and it shall be final and binding upon the Lessee for the purposes of this Agreement.
- 3.2.2 Upon issue of a Notice of Financial Default hereunder, the Lenders' Representative may, without prejudice to any of its rights or remedies under this Agreement or the Financing Agreements, substitute the Lessee by a Nominated Company in accordance with the provisions of this Agreement.
- 3.2.3 At any time after the Lenders' Representative has issued a Notice of Financial Default, it may by notice require the Lessor to suspend all the rights of the Lessee and undertake the operation and maintenance of the Project in accordance with the provisions of Article 26 of the Seabed Lease Agreement, and upon receipt of such notice, the Lessor shall undertake Suspension under and in accordance with the provisions of the Seabed Lease Agreement. The aforesaid Suspension shall be revoked upon substitution of the Lessee by a Nominated Company, and in the event such substitution is not completed within 180 (one hundred and eighty) days from the date of such Suspension, the Lessor may terminate the Seabed Lease Agreement forthwith by issuing a Termination Notice in accordance with the provisions of the Seabed Lease Agreement; provided that upon written request from the Lenders' Representative and the Lessee, the Lessor may extend the aforesaid period of 180 (one hundred and eighty) days by a period not exceeding 90 (ninety) days. For the avoidance of doubt, the Lessor expressly agrees and undertakes to terminate the Seabed Lease Agreement forthwith, upon receipt of a written request from the Lenders' Representative at any time after 240 (two hundred and forty) days from the date of Suspension hereunder.

3.3 Substitution upon occurrence of Lessee Event of Default

- 3.3.1 Upon occurrence of a Lessee Event of Default, the Lessor shall by a notice inform the Lenders' Representative of its intention to issue a Termination Notice and grant 15 (fifteen) days' time to the Lenders' Representative to make a representation, stating the intention to substitute the Lessee by a Nominated Company.
- 3.3.2 In the event that the Lenders' Representative makes a representation to the Lessor within the period of 15 (fifteen) days specified in Clause 3.3.1, stating that it intends to substitute the Lessee by a Nominated Company, the Lenders' Representative shall be entitled to undertake and complete the substitution of the Lessee by a Nominated Company in accordance with the provisions of this Agreement within a period of 180 (one hundred and eighty) days from the date of such representation, and the Lessor shall either withhold Termination or undertake Suspension for the aforesaid period of 180 (one hundred and eighty) days; provided that upon written request from the Lenders' Representative and the Lessee, the Lessor shall extend the aforesaid period of 180 (one hundred and eighty) days by a period not exceeding 90 (ninety) days.

3.4 Procedure for substitution

- 3.4.1 The Lessor and the Lessee hereby agree that on or after the date of Notice of Financial Default

or the date of representation to the Lessor under Clause 3.3, as the case may be, the Lenders' Representative may, without prejudice to any of the other rights or remedies of the Senior Lenders, invite, negotiate and procure offers, either by private negotiations or public auction or tenders for the take over and transfer of the Project Facilities including the Seabed Lease to the Nominated Company upon such Nominated Company's assumption of the liabilities and obligations of the Lessee towards the Lessor under the Seabed Lease Agreement and towards the Senior Lenders under the Financing Agreements.

- 3.4.2 To be eligible for substitution in place of the Lessee, the Nominated Company shall be required to fulfil the eligibility criteria that were laid down by the Lessor for shortlisting the bidders for award of the Seabed Lease provided that the Lenders' Representative may represent to the Lessor that all or any of such criteria may be waived in the interest of the Project, and if the Lessor determines that such waiver shall not have any Material Adverse Effect on the Project, it may waive all or any of such eligibility criteria.
- 3.4.3 Upon selection of a Nominated Company, the Lenders' Representative shall request the Lessor to:
- (a) accede to transfer to the Nominated Company the right to construct, operate and maintain the Project in accordance with the provisions of the Seabed Lease Agreement;
 - (b) endorse and transfer the Seabed Lease to the Nominated Company, on the same terms and conditions, for the residual Term of the Seabed Lease Agreement; and
 - (c) enter into a Substitution Agreement with the Lenders' Representative and the Nominated Company on the same terms as are contained in this Agreement.
- 3.4.4 If the Lessor has any objection to the transfer of Seabed Lease in favour of the Nominated Company in accordance with this Agreement, it shall within 15 (fifteen) days from the date of proposal made by the Lenders' Representative, give a reasoned order after hearing the Lenders' Representative. If no such objection is raised by the Lessor, the Nominated Company shall be deemed to have been accepted. The Lessor thereupon shall transfer and endorse the Seabed Lease within 15 (fifteen) days of its acceptance/deemed acceptance of the Nominated Company; provided that in the event of such objection by the Lessor, the Lenders' Representative may propose another Nominated Company whereupon the procedure set forth in this Clause 3.4 shall be followed for substitution of such Nominated company in place of the Lessee.

3.5 Selection to be binding

The decision of the Lenders' Representative and the Lessor in selection of the Nominated Company shall be final and binding on the Lessee. The Lessee irrevocably agrees and waives any right to challenge the actions of the Lenders' Representative or the Senior Lenders or the Lessor taken pursuant to this Agreement including the transfer/assignment of the Seabed Lease in favour of the Nominated Company. The Lessee agrees and confirms that it shall not have any right to seek revaluation of assets of the Project or the Lessee's shares. It is hereby acknowledged by the Parties that the rights of the Lenders' Representative are irrevocable and shall not be contested in any proceedings before any court or Lessor and the Lessee shall have no right or remedy to prevent, obstruct or restrain the Lessor or the Lenders' Representative from effecting or causing the transfer by substitution and endorsement of the Seabed Lease as requested by the Lenders' Representative.

4. PROJECT AGREEMENTS

4.1 Substitution of Nominated Company in Project Agreements

The Lessee shall ensure and procure that each Project Agreement contains provisions that entitle the Nominated Company to step into such Project Agreement, in its discretion, in place and substitution of the Lessee in the event of such Nominated Company's assumption of the liabilities and obligations of the Lessee under the Seabed Lease Agreement.

5. TERMINATION OF SEABED LEASE AGREEMENT

5.1 Termination upon occurrence of Financial Default

At any time after issue of a Notice of Financial Default, the Lenders' Representative may by a notice in writing require the Lessor to terminate the Seabed Lease Agreement forthwith, and upon receipt of such notice, the Lessor shall undertake Termination under and in, accordance with the provisions of Article 27 of the Seabed Lease Agreement.

5.2 Termination when no Nominated Company is selected

In the event that no Nominated Company acceptable to the Lessor is selected and recommended by the Lenders' Representative within the period of 180 (one hundred and eighty) days or any extension thereof as set forth in Clause 3.3, the Lessor may terminate the Seabed Lease Agreement forthwith in accordance with the provisions thereof.

6. DURATION OF THE AGREEMENT

6.1 Duration of the Agreement

This Agreement shall come into force from the date hereof and shall expire at the earliest to occurrence of the following events:

- (a) Termination of the Agreement; or
- (b) no sum remains to be advanced, or is outstanding to the Senior Lenders, under the Financing Agreements.

7 INDEMNITY

7.1 General indemnity

- 7.1.1 The Lessee will indemnify, defend and hold the Lessor and the Lenders' Representative harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of any breach by the Lessee of any of its obligations under this Agreement or on account of failure of the Lessee to comply with Applicable Laws and Applicable Permits.
- 7.1.2 The Lessor will indemnify, defend and hold the Lessee harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Lessor to fulfil any of its obligations under this Agreement, materially and adversely affecting the performance of the Lessee's obligations under the Seabed Lease Agreement or this Agreement, other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Lessor, its officers, servants and agents.
- 7.1.3 The Lenders' Representative will indemnify, defend and hold the Lessee harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense

arising out of failure of the Lenders' Representative to fulfil its obligations under this Agreement, materially and adversely affecting the performance of the Lessee's obligations under the Seabed Lease Agreement, other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Lenders' Representative, its officers, servants and agents.

7.2 Notice and contest of claims

In the event that any Party hereto receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under Clause 7.1 or in respect of which it is entitled to reimbursement (the "**Indemnified Party**"), it shall notify the other party responsible for indemnifying such claim hereunder (the "**Indemnifying Party**") within 15 (fifteen) days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, such approval not to be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same. The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.

8 DISPUTE RESOLUTION

- 8.1 Any dispute, difference or claim arising out of or in connection with this Agreement which is not resolved amicably shall be decided by reference to arbitration to a panel of arbitrators comprising 1 (one) nominee each of the Lessor, Lessee and the Lenders' Representative. Such arbitration shall be held in accordance with the Arbitration and Conciliation Act, 1996.
- 8.2 The Arbitrators shall issue a reasoned award and such award shall be final and binding on the Parties. The venue of arbitration shall be New Delhi and the language of arbitration shall be English.

9. MISCELLANEOUS

9.1 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts at New Delhi shall have jurisdiction over all matters arising out of or relating to this Agreement.

9.2 Waiver of sovereign immunity

The Lessor unconditionally and irrevocably:

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

- (d) consents generally in respect of the enforcement of any judgement or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, properly or revenues whatsoever irrespective of their use or intended use of any order or judgement that may be made or given in connection therewith).

9.3 Priority of agreements

In the event of any conflict between the Seabed Lease Agreement and this Agreement, the provisions contained in the Seabed Lease Agreement shall prevail over this Agreement.

9.4 Alteration of terms

All additions, amendments, modifications and variations to this Agreement shall be effectual and binding only if in writing and signed by the duly authorised representatives of the Parties.

9.5 Waiver

9.5.1 Waiver by any Party of a default by another Party in the observance and performance of any provision of or obligations under this Agreement:

- (a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;
- (b) shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and
- (c) shall not affect the validity or enforceability of this Agreement in any manner.

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

9.6 No third party beneficiaries

This Agreement is solely for the benefit of the Parties and no other person or entity shall have any rights hereunder.

9.7 Survival

Termination of this Agreement:

- (a) shall not relieve the Parties of any obligations hereunder which expressly or by implication survive Termination hereof.
- (b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.
- (c) all obligations surviving the cancellation, expiration or Termination of this Agreement shall only survive for a period of 3 (three) years following the date of such Termination or expiry of this Agreement.

9.8 Severability

If for any reason whatsoever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to dispute resolution under Clause 8 of this Agreement or otherwise.

9.9 Successors and assigns

This Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

9.10 Notices

All notices or other communications to be given or made under this Agreement shall be in writing, shall either be delivered personally or sent by courier or registered post with an additional copy to be sent by facsimile or e-mail. The address for service of each Party, its facsimile number and e-mail address are set out under its name on the signing pages hereto. A notice shall be effective upon actual receipt thereof, save that where it is received after 5:30 (five thirty) p.m. on any day, or on a day that is a public holiday, the notice shall be deemed to be received on the first working day following the date of actual receipt. Without prejudice to the foregoing, a Party giving or making a notice or communication by facsimile or e-mail shall promptly deliver a copy thereof personally, or send it by courier or registered post to the addressee of such notice or communication. It is hereby agreed and acknowledged that any Party may by notice change the address to which such notices and communications to it are to be delivered or mailed. Such change shall be effective when all the Parties have notice of it.

9.11 Language

All notices, certificates, correspondence and proceedings under or in connection with this Agreement shall be in English.

9.12 Authorized representatives

Each of the Parties shall by notice in writing designate their respective authorised representatives through whom only all communications shall be made. A Party hereof shall be entitled to remove and/or substitute or make fresh appointment of such authorised representative by similar notice.

9.13 Original Document

This Agreement may be executed in 3 (three) counterparts, each of which when executed and delivered shall constitute an original of this Agreement.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED SEALED AND DELIVERED

For and on behalf of the Lessor by:

(Signature)

(Name)

(Designation)

(Address)

(Fax No.)

(e-mail address)

SIGNED SEALED AND DELIVERED

For and on behalf of the Lessee by:

(Signature)

(Name)

(Designation)

(Address)

(Fax No.)

(e-mail address)

THE COMMON SEAL OF LESSEE has been affixed pursuant to the resolution passed by the board of directors of the Lessee at its meeting held on the _____ day of _____, 20 _____ hereunto affixed in the presence of _____, Director, who has signed these presents in token thereof and _____, Company Secretary/ Authorised Officer who has countersigned the same in token thereof:

SIGNED, SEALED AND DELIVERED

For and on behalf of SENIOR LENDERS by the Lenders' Representative:

(Signature)

(Name)

(Designation)

(Address)

(Fax)

(Email address)

In the presence of

SCHEDULE VI:

DECOMMISSIONING PROGRAMME⁹

⁹ Decommissioning programme submitted by Lessee to be set out here.