

**STANDARD**  
**POWER PURCHASE AGREEMENT (PPA) FOR**  
**PROCUREMENT OF ... kW SOLAR POWER**  
**ON LONG TERM BASIS**  
**BETWEEN**

**..... [Insert Name of Solar Power Developer]**

**And**

**Lakshadweep Electricity Department**

SPD-LED PPA

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

Between

..... [Insert name of the Solar Power Developer] (CIN-\_\_\_\_\_), a Company incorporated under the Companies Act 1956 or Companies Act 2013, having its registered office at ..... [Insert address of the registered office of Solar Power Developer] (hereinafter referred to as “**Solar Power Developer**” or “**SPD**” or “**Developer**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and permitted assigns) as a Party of the **First Part**;

And

Lakshadweep Electricity Department, UT of Lakshadweep, having its office at Collector’s Chamber, Secretariat Building, Kavaratti, Lakshadweep- 682555, (hereinafter referred to as “**LED**” or “**Buying Entity**” which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and assignees) as a Party of the **Second Part**;

The Buying Entity and SPD are each individually referred to as a "Party" and collectively as the "Parties".

WHEREAS:

- A. The Government of India has announced the Policy for promotion of the renewable energy-based project installation in the country and has set an ambitious target to achieve 500 GW of non-fossil-based installed energy capacity by the year 2030.
- B. SECI has been designated as a Nodal Agency for implementation of RE projects/plan for Greening of Lakshadweep Islands.
- C. Solar Energy Corporation of India Limited (hereinafter referred to as “**SECI**”) had initiated a Tariff Based Competitive Bid Process for setting up of 4 grid connected Solar Power Project with a cumulative capacity of 1385 kW on the islands of Lakshadweep under RESCO mode on the terms and conditions contained in the Request for Selection (hereinafter referred to as “**RfS**”) issued by SECI vide RfS No. .... dated .....

- D. ... [Insert Name of the Bidding Company] has been selected in the Competitive Bidding Process, {in case Bidding Company is executing the Project through SPV} has constituted a Special Purpose Vehicle ... [Insert Name of the SPV] (hereinafter referred to as ‘SPD’), for development, generation and supply of electricity from the ... Solar Power Project to be established on the island of .....in Lakshadweep and for supply of such electricity to LED as per this Power Purchase Agreement.
- E. SECI has issued the Letter of Award No. .... dated .... in favour of the \_\_\_ [Insert name of the Bidding Company] for development and establishment of the ... kW Solar Power Project on the island of.....in Lakshadweep as per terms and conditions contained in the RfS, draft of this Power Purchase Agreement circulated at the time of the bidding and other bidding documents as well as the conditions contained in the Letter of Award.
- F. In terms of the RfS and the Bidding Documents, the SPD has furnished the Performance Bank Guarantee/ Payment on Order Instrument in the sum of Rs.....in favour of SECI as per the format provided as a part of the Bidding Documents and a copy of the Bank Guarantee/ Payment on Order Instrument provided is in Schedule-2/ Schedule-3 to this Agreement.
- G. Whereas, the proposed Project being setup on the said Island of Lakshadweep and will be connected to designated LED grid at 11 kV voltage level or any other voltage level as consented by LED.
- H. Both the parties have agreed to execute this Power Purchase Agreement in terms of the provisions of the RfS, the bidding documents and the Letter of Award in regard to the terms and conditions for establishment of the Solar Power Project in Lakshadweep and for generation and supply of electricity by the SPD to LED.
- I. SPD has agreed to install, operate and maintain the Project for the period of minimum (25) years (or extended period as mutually agreed) from the date of Commercial Operation Date (COD) of the project;
- J. LED has agreed to purchase the entire Solar Power of the said Project on the terms and conditions contained in this Agreement.

SPD-LED PPA

- K. In terms of the RfS and the Bidding Documents, the SPD has furnished the Performance Bank Guarantee in the sum of Rs. .... in favour of SECI as per the Format provided as part of the Bidding Documents.
- L. LED has agreed to pay for the energy purchased from SPD at a tariff to be determined as per provisions contained herein;

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

**ARTICLE 1: DEFINITIONS AND INTERPRETATION****1.1. Definitions**

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

“Accounting Year”	Means the Financial Year commencing from 1 <sup>st</sup> April of a calendar year and ending on 31 <sup>st</sup> March of the next calendar year. The 1 <sup>st</sup> accounting year for the unit shall start from the date of commissioning of the unit and shall end on the 31 <sup>st</sup> March of the next calendar year:
“Act” or “ Electricity Act, 2003”	Electricity Act, 2003 and include any modifications, amendments and substitution from time to time;
“Actual Monthly Production”	means the amount of energy recorded by the Main Metering System during each calendar month of the Term, pursuant to Section 6.1;
“Adjusted Equity”	<p>shall mean the Equity funded in Indian Rupees and adjusted on the first day of the current month (the “Reference Date”), in the manner set forth below, to reflect the change in its value on account of depreciation and variations in Wholesale Price Index (WPI), and for any Reference Date occurring between the first day of the month of Appointed Date (the date of achievement of Financial Closure) and the Reference Date;</p> <p>i. On or before Commercial Operation Date (COD), the Adjusted Equity shall be a sum equal to the Equity funded in Indian Rupees and expended on the Project, revised to the extent of one half of the variation in WPI occurring between the first day of the month of Appointed Date and Reference Date;</p> <p>ii. An amount equal to the Adjusted Equity as on COD shall</p>

	<p>be deemed to be the base (the “Base Adjusted Equity”);</p> <p>iii. After COD, the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, reduced by 0.333% (zero point three three three percent) thereof at the commencement of each month following the COD [reduction of 1% (one percent) per quarter of a year] and the amount so arrived at shall be revised to the extent of variation in WPI occurring between the COD and the Reference Date;</p> <p>For the avoidance of doubt, the Adjusted Equity shall, in the event of termination, be computed as on the Reference Date immediately preceding the Transfer Date; provided that no reduction in the Adjusted Equity shall be made for a period equal to the duration, if any, for which the PPA period is extended, but the revision on account of WPI shall continue to be made.</p>
<p>“Affiliate”</p>	<p>shall mean a company that, directly or indirectly,</p> <p>i. controls, or</p> <p>ii. is controlled by, or</p> <p>iii. is under common control with, a Company developing a Project or a Member in a Consortium developing the Project and control means ownership by one company of at least 26% (twenty six percent) of the voting rights of the other company;</p>
<p>“Agreement” or Power Purchase Agreement” or “PPA”</p>	<p>means this Power Purchase Agreement executed hereof, including the schedules, amendments, modifications and supplements made in writing by the Parties from time to time;</p>
<p>“Applicable Law”</p>	<p>means, with respect to any Person, any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, guideline, Governmental Approval, consent or requirement of any Governmental Authority in India having jurisdiction over such Person or its property, enforceable by</p>

	law or in equity, including the interpretation and administration thereof by such Governmental Authority;
“Appropriate Commission”	shall mean the Central Electricity Regulatory Commission referred to in sub- section (1) of section 76 or the State Electricity Regulatory Commission referred to in section 82 or the Joint Electricity Regulatory Commission referred to in Section 83 of the Electricity Act 2003, as the case may be; For this agreement, JERC: shall mean Joint Electricity Regulatory Commission
“Assignment”	has the meaning set forth in Section 13.1;
“Battery Energy Storage System (BESS)”	Shall mean an energy storage system based on commercially available electrochemical storage media comprising of unit batteries, including battery management system (BMS), auxiliaries (if any) installed as a part of the Project;
“Business Day”	means any day other than Sunday or any other day on which banks in ___ [Insert place of location of Buying Entity’s Office] are required or authorized by Applicable Law to be closed for business;
“Buying Entity” or “Client”	shall mean the Lakshadweep Electricity Department (LED), UT of Lakshadweep, which is authorized to sign the PPA with the SPD, either by itself or through its authorized agency or shall mean the Lakshadweep Energy Development Agency (LEDA), as the case may be
“Buying Entity Default”	has the meaning set forth in Section 11.1;
“Buying Entity Indemnified Parties”	has the meaning set forth in Section 12.1;
“Commissioning”	The Project will be considered as commissioned if all equipment as per rated Project Capacity has been installed and energy has flown into grid, in line with the Commissioning procedures defined in the PPA;
“Commercial Operation Date” or	shall mean the date on which the commissioning certificate is issued upon successful commissioning (as per provisions of

“COD”	this Agreement) of the project;
“Contract Year”	<p>shall mean the period beginning from the Effective Date and ending on the immediately succeeding March 31 and thereafter each period of 12 months beginning on April 1 and ending on March 31 provided that:</p> <p>i) in the financial year in which the Scheduled Commissioning Date would occur, the Contract Year shall end on the date immediately before the Scheduled Commissioning Date and a new Contract Year shall commence once again from the Scheduled Commissioning Date and end on the immediately succeeding March 31, and thereafter each period of twelve (12) months commencing on April 1 and ending on March 31, and</p> <p>ii) provided further that the last Contract Year of this Agreement shall end on the last day of the Term of this Agreement</p>
“Confidential Information”	has the meaning set forth in Section 16.4;
“Consents, Clearances and Permits”	shall mean all authorization, licenses, approvals, registrations, permits, waivers, privileges, acknowledgements, agreements, or concessions required to be obtained from or provided by any concerned authority for the purpose of setting up of the generation facilities and / or supply of power;
“Debt Due”	<p>shall mean the aggregate of the following sums expressed in Indian Rupees outstanding on the Transfer Date:</p> <p>i. The principal amount of the debt provided by the Senior Lenders under the Financing Agreements for financing the Total Project Cost (the ‘Principal’) but excluding any part of the principal that had fallen due for repayment 2 (two) years prior to the Transfer Date;</p> <p>ii. All accrued interest, financing fees and charges payable under the Financing Agreements on, or in respect of, the debt referred to in sub-clause (i) above until the Transfer Date but</p>

	<p>excluding: (i) any interest, fees or charges that had fallen due one year prior to the Transfer Date, (ii) any penal interest or charges payable under the Financing Agreements to any Senior Lender, (iii) any pre-payment charges in relation to accelerated repayment of debt except where such charges have arisen due to Utility Default, and (iv) any Subordinated Debt which is included in the Financial Package and disbursed by lenders for financing the Total Project Cost.</p> <p>Provided that if all or any part of the Debt Due is convertible into Equity at the option of Senior Lenders and/or the Concessionaire, it shall for the purposes of this Agreement be deemed not to be Debt Due even if no such conversion has taken place and the principal thereof shall be dealt with as if such conversion had been undertaken.</p> <p>Provided further that the Debt Due, on or after COD, shall in no case exceed 80% (eighty percent) of the Total Project Cost.</p>
“Delivery Point”	shall be the single point, at a location mutually agreed by the Parties, in line with applicable regulation/ rules where Solar Power is delivered by the SPD from the System to the Buying Entity;
“Dispute”	has the meaning set forth in Section 14
“Disruption Period”	has the meaning set forth in Section 14
“Distribution Utility”	means the local electric distribution owner and operator providing electric distribution and interconnection services to Buying Entity at the Premises;
“Due Date”	shall mean the forty-fifth (45th) day after a Monthly Bill (including all the relevant documents) or a Supplementary Bill is received in hard copy and duly acknowledged by the LED or, if such day is not a Business Day, the immediately succeeding Business Day, by which date such Monthly Bill or a Supplementary Bill is payable by LED.
“Effective Date”	has the meaning set forth in Section 2;
“Estimated	means as of any date, the estimated remaining Solar Power

Remaining Payments”	Payments to be made through the end of the applicable Term, as reasonably determined by SPD in accordance with Section 8;
“Expiration Date”	means the date on which the Agreement terminates by reason of expiration of the Term.
“Financing Party”	means, as applicable (i) any Person (or its agent) from whom the SPD (or an Affiliate of the SPD) leases the System, or (ii) any Person (or its agent) who has made or will make a loan to or otherwise provide financing to the SPD (or an Affiliate of the SPD) with respect to the System;
“Force Majeure Event”	has the meaning set forth in Section 9.1;
“Governmental Approval”	means any approval, consent, franchise, permit, certificate, resolution, concession, license or authorization issued by or on behalf of any applicable Governmental Authority for the purpose of setting up of the Project and / or for sale and purchase of Solar Power of the Project pursuant to this Agreement;
“Governmental Authority”	means any central, state, regional, district, town, city or municipal government, whether domestic or foreign, or any department, agency, bureau, or other administrative, regulatory or judicial body of any such government;
“Indemnified Persons”	means the Buying Entity Indemnified Parties or the SPD Indemnified Parties, as the context requires;
“Insolvency Event”	means with respect to a Party, that either: i. such Party has (A) applied for or consented to the appointment of, or the taking of possession by, a receiver, custodian, trustee, administrator, liquidator or the like of itself or of all or a substantial part of its assets or business; (B) been unable to pay its debts as such debts become due; (C) made a general assignment for the benefit of its creditors; (D) commenced a voluntary proceeding under any insolvency or bankruptcy law; (E) filed a petition seeking to take advantage

	<p>of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; or (F) taken any corporate or other action for the purpose of effecting any of the foregoing; or</p> <p>ii. It is clarified that a dissolution or liquidation will not be an Insolvency Event if such dissolution or liquidation is for the purpose of a merger, consolidation or reorganization, and the resulting company retains creditworthiness similar to the dissolved or liquidated entity and expressly assumes all obligations of the dissolved and liquidated entity under this Agreement and is in a position to perform them;</p>
“Installation Work”	means the construction and installation of the System and the start-up, testing and acceptance (but not the operation and maintenance) thereof, all performed by or for the SPD at the Premises;
“Invoice Date”	has the meaning set forth in Section 8;
“JERC”	shall mean the Joint Electricity Regulatory Commission for the State of Goa & Union Territories constituted under Section-82 of Electricity Act, 2003 or its successors, and includes a Joint Commission constituted under Subsection (1) of Section 83 of Electricity Act 2003;
“Lender”	means such bank, or other financial institution, including their successors and assignees, who have agreed to provide the SPD with debt financing of the Project;
“Losses”	means all losses, liabilities, claims, demands, suits, causes of action, judgments, awards, damages, cleanup and remedial obligations, interest, fines, fees, penalties, costs and expenses (including all attorneys’ fees and other costs and expenses incurred in defending any such claims or other matters or in asserting or enforcing any indemnity obligation);
“Main Metering System”	means all meter(s) and metering devices owned by the SPD and installed at the Delivery point for measuring and recording the delivery and receipt of energy;

<p>“Metering Date”</p>	<p>means the first Business day of each calendar month subsequent to the month in which the Solar Power is generated by the SPD. The billable units shall be equal to the difference between the meter reading on the Metering Date and the meter reading on the previous month’s Metering Date;</p>
<p>“Party or Parties”</p>	<p>has the meaning set forth in the preamble to this Agreement;</p>
<p>“Person”</p>	<p>means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, firm, or other entity, or a Governmental Authority;</p>
<p>“Premises”</p>	<p>means the premises described in Schedule-1 to this Agreement. For the avoidance of doubt, the Premises includes the entirety of any structures and underlying real property located at the address described in Schedule-1 to this Agreement;</p>
<p>“Scheduled Commissioning Date” or “SCD” of the Project</p>	<p>shall mean ..... [Insert Date]; or _____ month from the effective date of PPA.</p>
<p>“Solar Power”</p>	<p>means the supply of electrical energy output from the System;</p>
<p>“SPD Default”</p>	<p>has the meaning set forth in Section 11;</p>
<p>“SPD Indemnified Parties”</p>	<p>has the meaning set forth in Section 12;</p>
<p>“Solar Power Project” or “Project”</p>	<p>includes the integrated assembly of photovoltaic panels, mounting assemblies, inverters, converters, metering, lighting fixtures, transformers, ballasts, disconnects, combiners, switches, wiring devices and wiring, and all other material comprising the Installation Work;</p> <p>The rated project capacity shall be as follows:  AC Capacity: .....  BESS Capacity: .....</p>
<p>“System Operations”</p>	<p>means the SPD’s operation, maintenance and repair of the System performed in accordance the requirements herein;</p>

“Tariff”	means the applicable price per kWh as per Section 7;
“Term”	has the meaning set forth in Section 2.2;

## 1.2. Interpretation

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

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

- 1.2.10 This Agreement itself or any other agreement or document shall be construed as a reference to this or to such other agreement or document as it may have been, or may from time to time be, amended, varied, novated, replaced or supplemented only if agreed to between the parties;
- 1.2.11 A Law shall be construed as a reference to such Law including its amendments or re-enactments from time to time;
- 1.2.12 A time of day shall, save as otherwise provided in any agreement or document be construed as a reference to Indian Standard Time;
- 1.2.13 Different parts of this Agreement are to be taken as mutually explanatory and supplementary to each other and if there is any inconsistency between or among the parts of this Agreement, they shall be interpreted in a harmonious manner so as to give effect to each part;
- 1.2.14 The tables of contents and any headings or sub-headings in this Agreement have been inserted for ease of reference only and shall not affect the interpretation of this Agreement;
- 1.2.15 All interest, if applicable and payable under this Agreement, shall accrue from day to day and be calculated on the basis of a year of three hundred and sixty-five (365) days;
- 1.2.16 The words “hereof” or “herein”, if and when used in this Agreement shall mean a reference to this Agreement;
- 1.2.17 The terms “including” or “including without limitation” shall mean that any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;
- 1.2.18 This Agreement and other documents such as Request for Selection Documents including subsequent clarifications, amendments in regard to the tender shall be read in conjunction with each other and interpreted in harmonious manner. However, in case of any mismatch/contradiction between provisions of different documents, following shall be the order of precedence:
1. Power Purchase Agreement
  2. RfS Documents

## ARTICLE 2: TERM OF AGREEMENT

### **2.1. Effective Date**

2.1.1 This Agreement shall come into effect from the date of its execution by both the Parties and such date shall be referred to as the Effective Date.

### **2.2. Term of Agreement**

2.2.1 The term of the Agreement shall commence on the Effective Date and shall continue for twenty-five (25) years from the Commercial Operation Date (the "Term"), unless and until terminated earlier pursuant to the provisions of the Agreement. This Agreement may be extended for a further period at least one hundred eighty (180) days prior to the Expiry Date, on mutually agreed terms and conditions.

### **2.3. Early Termination**

2.3.1 This Agreement shall terminate before the Expiry Date: if either SPD or LED terminates this Agreement, pursuant to Article 11 of this Agreement;

### **2.4. Survival**

2.4.1 The expiry or termination of this Agreement shall not affect any accrued rights, obligations and liabilities of the Parties under this Agreement, including the right to receive liquidated damages as per the terms of this Agreement, nor shall it affect the survival of any continuing obligations for which this Agreement provides, either expressly or by necessary implication, which are to survive after the Expiry Date or termination including those under, Article 9 (Force Majeure), Article 11 (Events of Default and Termination), Article 12 (Liability and Indemnification), Article 14 (Governing Law and Dispute Resolution), Article 16 (Miscellaneous Provisions), and other Articles and Schedules of this Agreement which expressly or by their nature survive the Term or termination of this Agreement shall continue and survive any expiry or termination of this Agreement.

## **ARTICLE 3: INSTALLED CAPACITY AND PERFORMANCE SECURITY**

### **3.1 Installed Capacity**

3.1.1 The SPD shall configure the project with the objective of supplying solar power to the Buying Entity. Accordingly, the Project Capacity i.e. Installed Capacity shall mean the rated capacity of the Solar Power Project.

### **3.2 Performance Bank Guarantee/ Payment on Order Instrument**

3.2.1 The Performance Bank Guarantee (PBG)/ Payment on Order Instrument (POI) having validity from the date of submission of PBG/POI until .....(insert validity period as per RfS conditions), submitted for a value of Rs. \_\_\_\_\_ (in words) under this Agreement, shall be for guaranteeing the commissioning of the project as per the Contracted Capacity within the time specified in this Agreement as per format provided in Schedule 2/Schedule 3.

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

3.2.3 If the SPD fails to commission the project till SCD specified in this Agreement or any further extension thereof granted by SECI/LEDA/LED, subject to conditions mentioned in Article 4.5, SECI shall encash the Performance Bank Guarantee/ POI equivalent to the amount calculated as per penalties applicable under Article 4.6 as on the date of encashment without prejudice to the other rights of SECI/LEDA/LED under this Agreement.

### **3.3 Return of Performance Bank Guarantee/ Payment on Order Instrument**

3.4.1 Subject to Article 3.2, SECI shall return/ release the Performance Bank Guarantee/ Payment on Order Instrument within 30 days after full commissioning of the Project after taking into account any liquidated damages / penalties due to delays in commissioning of the project beyond SCD as per provisions stipulated in this Agreement.

3.4.2 The return / release of the Performance Bank Guarantee/ Payment on Order Instrument shall be without prejudice to other rights of SECI/LEDA/LED under this Agreement.

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

### **4.1 SPD's Obligations**

- 4.1.1 The SPD undertakes to be responsible, at SPD's own cost and risk, for the following:
- a. The SPD shall be solely responsible for development of the Project and for Connectivity with LED grid for confirming the availability of power system required for supply of power by the SCD and all clearances related thereto.
  - b. Obtaining all Consents, Clearances and Permits as required and maintaining all Consents, Clearances and Permits in full force and effect during the Term of this Agreement. LED shall have no obligation to recommend to any department/agency or the Govt. for the grant/permission for the Solar Power project. The Solar Power Developer shall, on his own, obtain permissions/ sanctions from Government authorities, if any required for establishing the Project. Any steps that may be taken by LED in regard to grant of such consents and permits or any other approval to be taken by the SPD shall only be a voluntary endeavour with no intention of being bound by any legal or binding obligation.
  - c. Designing, constructing, erecting, commissioning, completing and testing the Power Project in accordance with the applicable Law, the Grid Code, the terms and conditions of this Agreement and Prudent Utility Practices.
  - d. The SPD shall make adequate arrangements to connect the Solar Power Project switchyard with the Interconnection Facilities at Interconnection / Metering / Delivery Point.
  - e. The commencement of supply of power up to the Contracted Capacity to LED no later than the SCD and continuance of the supply of power throughout the term of the Agreement.
  - f. Owning the Project throughout the Term of Agreement free and clear of encumbrances, except those expressly permitted under this agreement.
  - g. Maintaining minimum 51% shareholding prevalent at the time of signing of PPA up to a period of one (1) year after the SCD;  
Further, maintaining minimum 51% shareholding prevalent at the time of signing of PPA up to a period of one (1) year after the SCSD in line with Clause 21 of the RfS;  
{applicable in case the Project is being executed by the SPV}
  - h. Fulfilling all obligations undertaken by the SPD under this Agreement and also as per the terms of the RfS.
  - i. The SPD shall be responsible to for directly coordinating and dealing with the

corresponding Buying Entity, Load Dispatch Centres, Regional Power Committees, and other authorities in all respects in regard to declaration of availability, scheduling and dispatch of Solar Power and due compliance with deviation and settlement mechanism and the applicable Grid code/State/Central Regulations, acknowledging that the SPD and the corresponding Buying Entity is the Grid connected entity in respect of the Solar Power contracted under this Agreement.

- j. The SPD shall fulfil the technical requirements according to criteria mentioned under Annexure B of the RfS–Technical requirement for Grid Connected Solar PV Power Projects. The modules used in the Project shall be sourced only from the models and manufacturers included in List-I under the “Approved List of Models and Manufacturers” as published by MNRE and valid as on the date of invoicing of such modules.
- k. The SPD shall be solely responsible for and obligated to ensure that the Project being implemented under this Agreement shall fulfil the criteria as per Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007, and subsequent amendments and clarifications thereof.

#### **4.2 Information regarding Interconnection Facilities**

- 4.2.1 The SPD shall be required to obtain all information from the STU/CTU/concerned authority with regard to the Interconnection Facilities as is reasonably necessary to enable it to design, install and operate all interconnection plant and apparatus on the SPD’s side of the Delivery Point to enable delivery of electricity at the Delivery Point. The transmission of power up to the point of interconnection where the metering is done for energy accounting shall be the responsibility of the SPD at his own cost.
- 4.2.2 The responsibility of getting connectivity with the transmission system up to the Interconnection Point, will lie with the SPD. The transmission of power up to the point of interconnection where the metering is done for energy accounting shall be the responsibility of the SPD at his own cost. The maintenance of Transmission system up to the designated point as per the applicable terms and conditions shall be the responsibility of the SPD to be obtained at his own cost. All costs and charges including but not limited to the wheeling charges and losses up to and including at the Interconnection Point associated with this arrangement will also be borne by the SPD.
- 4.2.3 The arrangement of connectivity shall be made by the SPD through a dedicated transmission line. The entire cost of transmission including cost of construction of line,

any other charges, losses etc. from the Project up to the Interconnection Point will be borne by the SPD. In case of non-availability of Grid and Transmission System during Term of this Agreement, for reasons not attributable to the SPD, provisions of Article 8.7 shall be applicable.

### **4.3 Purchase and sale of Power**

4.3.1 Subject to the terms and conditions of this Agreement, the SPD undertakes to sell solar power to LED and LED undertakes to purchase such power and pay Tariff for all the energy supplied at the Delivery Point corresponding to the Contracted Capacity.

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

4.4.1 It shall be the responsibility of the SPD, entirely at its cost and expense to install such number of Solar panels and associated equipment as may be necessary to achieve the required Energy supply. For any Contract Year, except for the Contract Year ending on 31st March immediately after the date of commissioning of the Project, SPD shall supply Annual Energy of.....MWh from the project, till the end of the PPA term.

4.4.2 If for any Contract Year, except for the Contract Year ending on 31st March immediately after the date of commissioning of the Project, it is found that the SPD has not been able to supply minimum energy from the project for the rest of the Term of the Agreement, save and except in case of Force Majeure, the SPD shall be liable to pay penalty to the Buying Entity.

In case of shortfall in energy generation from the Project during any Contract Year with reference to the minimum energy amounting to 90 % of the Annual Energy to be supplied (MWh) i.e. \_\_\_\_\_ MWh, from the project as per the provisions of the RfS, the penalty shall be levied on the bidder amounting to PPA/Applicable tariff multiplied by the difference in the actual energy supplied and the minimum annual energy to be supplied (i.e. 90 % of the Annual Energy to be supplied) on the yearly basis. The penalty shall be recovered from the running bills of the SPD.

4.4.3 The lower limit will, however, be relaxable by Buyer to the extent of Generation Compensation due to grid non-availability to the Project for evacuation which is beyond the control of the SPD as determined under provisions of Article 8.7. The amount of such penalty at the Applicable Tariff for the shortfall in energy terms. The penalty as per above shall be applied on the amount of shortfall in generation from the Project

during any Contract Year. This penalty shall not be applicable in events of Force Majeure identified under this Agreement, affecting supply of Solar Power by SPD.

- 4.4.4 In case at any point of time, the peak of capacity reached is higher than the Contracted Capacity and causes disturbance in the system at the point where power is injected, the SPD will have to forego the excess generation and reduce the output to the rated capacity.

#### **4.5 Extensions of Time**

- 4.5.1 In the event that the SPD is prevented from performing its obligations under Article 4.1 by the SCD due to:

- a. any LED's Event of Default; or
- b. Force Majeure Events affecting LED, or
- c. Force Majeure Events affecting the SPD,

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

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

- a. The SPD has complied with the complete application formalities as per RfS,
- b. The SPD has adhered to the applicable Procedure in this regard as notified by the JERC/CERC/CTU, and
- c. The delay in readiness of the substation at the Delivery Point, including readiness of the power evacuation and transmission infrastructure of the network, is solely attributable to the LED and is beyond the control of the SPD;

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

- 4.5.3 In case of extension due to reasons specified in Article 4.5.1(b) and (c), and if such Force Majeure Event continues even after a maximum period of nine (9) months from the date of the Force Majeure Notice, termination of this Agreement shall be caused

solely at the discretion of LED, as per the provisions of Article 9.

- 4.5.4 If the Parties have not agreed, within thirty (30) days after the affected Party's performance has ceased to be affected by the relevant circumstance, on the time period by which the SCD or the Expiry Date should be deferred, either Party may raise the Dispute to be resolved in accordance with Article 14.
- 4.5.5 As a result of such extension on account of Article 4.5.1 or Article 4.5.2, the newly determined SCD and newly determined Expiry Date shall be deemed to be the SCD and the Expiry Date for the purposes of this Agreement.
- 4.5.6 Delay in commencement of power supply from the project beyond the SCD for reasons other than those specified in Article 4.5.1 & Article 4.5.2 shall be an event of default on part of the SPD and shall be subject to the consequences specified in the Article 4.6.

#### **4.6 Penalty for delay in commissioning of the project**

- 4.6.1 The SPD shall commission the full Project Capacity within SCD as defined in this Agreement. If the SPD is unable to commission the Project by the SCD for the reasons other than those specified in Article 4.5.1 and 4.5.2, the SPD shall pay to SECI, penalty for the delay in commissioning and making the Contracted Capacity available for dispatch by the SCD as per the following:
- a. Delay beyond the SCD upto (& including) the date as on 6 months after the SCD or the extended SCD, if applicable: The total PBG/POI amount shall be encashed on per-day basis. For example, , if the commissioning of the project is delayed by 18 days beyond the SCD, then the penalty shall be: PBG amount X (18/180).
  - b. For avoidance of doubt it is clarified that provisions of Article 4.6.1 will be applicable even in case where no capacity (i.e. 0 kW) has been commissioned.
- 4.6.2 The maximum time period allowed for commissioning of the full Project Capacity with encashment of Performance Bank Guarantee/ Payment on Order Instrument shall be limited to 6 months after the SCD/extended SCD of the Project. In case, the commissioning of the Project is delayed beyond 6 months after the SCD, following shall be applicable:
- a. The Contracted Capacity shall stand reduced/ amended to the capacity corresponding to the Project Capacity that has commenced power supply until the date as on 6 months after the SCD and the PPA for the balance capacity will stand terminated and shall be reduced from the Contracted Capacity.

However, LED/SECI/LEDA has the full right to give extension to SPDs beyond the

time line as mentioned above in case reason of delay is beyond the reasonable control of SPD.

- 4.6.3 The SPD acknowledges and accepts that the methodology specified herein above for calculation of penalty payable by the SPD is a genuine and accurate pre-estimation of the actual loss that will be suffered by LED. SPD further acknowledges that a breach of any of the obligations contained herein result in injuries and that the amount of the penalty or the method of calculating the penalty specified in this Agreement is a genuine and reasonable pre-estimate of the damages that may be suffered by the LED in each case specified under this Agreement.

#### **4.7 Acceptance/Performance Test**

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

#### **4.8 Third Party Verification**

- 4.8.1 The SPD shall be further required to provide entry to the site of the Solar Power Project (from which power under this Agreement is being made available) free of all encumbrances at all times during the Term of the Agreement to SECI/LEDA/LED and a third Party nominated by any Indian Governmental Instrumentality for inspection and verification of the works being carried out by the SPD at the site of the Power Project. The SPD shall provide full support to SECI/LEDA/LED and/or the third party in this regard.
- 4.8.2 The third party may verify the construction works/operation of the Project being carried out by the SPD and if it is found that the construction works/operation of the Power Project is not as per the Prudent Utility Practices, it may seek clarifications from SPD or require the works to be stopped or to comply with the instructions of such third party.

#### **4.9 Breach of Obligations**

- 4.9.1 The Parties herein agree that during the subsistence of this Agreement, subject to LED being in compliance of its obligations & undertakings under this Agreement, the SPD would have no right to negotiate or enter into any dialogue with any third party for the sale of Contracted Capacity of power which is the subject matter of this Agreement. It

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is the specific understanding between the Parties that such bar will apply throughout the entire term of this Agreement.

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

### **5.1 Synchronization, Commissioning and Commercial Operation**

- 5.1.1 The SPD shall give LEDA, LED and SECI at least sixty (60) days' advanced preliminary written notice and at least thirty (30) days' advanced final written notice, of the date on which it intends to synchronize the Power Project to the Grid System.
- 5.1.2 Subject to Article 5.1.1, the Power Project may be synchronized by the SPD to the Grid System when it meets all the connection conditions prescribed in applicable Grid Code then in effect and otherwise meets all other Indian legal requirements for synchronization to the Grid System.
- 5.1.3 The synchronization equipment and all necessary arrangements / equipment including RTU for scheduling of power generated from the Project and transmission of data to the concerned authority as per applicable regulation shall be installed by the SPD at its generation facility of the Power Project at its own cost. The SPD shall synchronize its system with the Grid System only after the approval of synchronization scheme is granted by the head of the concerned substation/Grid System and checking/verification is made by the concerned authorities of the Grid System.
- 5.1.4 The SPD shall immediately after each synchronization/tripping of generator, inform the sub-station of the Grid System to which the Power Project is electrically connected in accordance with applicable Grid Code under intimation to SECI. In addition, the SPD will inject in-firm power to grid time to time to carry out operational/ functional test prior to commercial operation. For avoidance of doubt, it is clarified that Synchronization / Connectivity of the Project with the grid shall not to be considered as Commissioning of the Project.
- 5.1.5 The SPD shall commission the Project as detailed in "Schedule-4: Commissioning Procedure" within **24 Months** from the Effective Date of PPA. Declaration of COD shall only be done subject to the demonstration of the compliances as per Schedule-4.
- 5.1.6 The Parties agree that for the purpose of commencement of the supply of electricity by SPD to LED, liquidated damages for delay etc., the Scheduled Commissioning Date or extended Scheduled Commissioning Date as defined in this Agreement shall be the relevant date.

### **5.2 Early Commissioning**

- 5.2.1 The SPD shall be permitted for full commissioning of the Project even prior to the

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Scheduled Commissioning Date, subject to availability of transmission connectivity. Early commissioning of the Project will be allowed solely at the risk and cost of the SPD, and LED may purchase the energy from such early commissioned Project at the PPA tariff.

## **ARTICLE 6: METERING**

### **6.1 Metering**

- 6.1.1 The metering arrangements for metering the electrical energy supplied at the SPD delivery point shall be at outgoing feeder from the Project. The metering arrangements shall comply with the norms of JERC/CEA as applicable.
- 6.1.2 The Metering shall be of ABT platform. A set of Main and Check Meters of 0.2S accuracy class, as per CEA (Installation & operation of meters) Regulations 2006/ IEGC as applicable, shall be procured and installed by SPD at Interconnection Point of the Project based on specifications provided by LED.
- 6.1.3 The Main, Check and Standby Meters shall be checked and sealed by LED in presence of SPD at the time of installation as per the CEA (Installation & Operation of Meters) Regulations 2006 as amended from time to time.
- 6.1.4 In case both Main meter and Check meter fail, for the purpose of Billing, energy recorded in the Standby Meter shall be considered and at least one of the meters shall be immediately replaced by a correct meter. In case of failure of main meter, readings of check meter shall be taken for billing purpose.
- 6.1.5 In case of failure of meters, energy accounting for the period shall be as per procedure stipulated in CEA (Installation and Operation of Meters) Regulations 2006 and amendments thereon. If the Main Meter(s) or Check meter(s) fail to record or if any of the PT fuses is blown out, energy shall be computed based on standby meters.
- 6.1.6 Periodic testing of Main, Check and Standby Meters shall be carried out in the presence of representatives of SPD and LED as per procedure laid out in CEA (Installation and Operation of Meters) Regulations, 2006. For any testing and/ or replacement, notice of seven days will be given.

### **6.2 Energy Scheduling**

- 6.2.1 It is understood and agreed by and between the parties that SPD shall operate the Project as per applicable grid operating standards and relevant statutory provisions/ guidelines and codes, as applicable from time to time. It is agreed between the Parties that the Project shall be treated as 'MUST RUN' and shall not be subject to merit order dispatch.

**ARTICLE 7: APPLICABLE TARIFF**

- 7.1.1 The SPD shall be entitled to receive the Tariff of Rs. \_\_\_\_\_ / kWh [Insert the Tariff discovered through the bidding process conducted by SECI], fixed for the entire term of this Agreement, with effect from the date of commissioning of the project, for the power sold to LED for the scheduled energy as reflected in the Energy Accounts.
- 7.1.2 Any implication of Change in Law as per Article 10 which shall result in a revision of the tariff accordingly, applicable from the month subsequent to such change.
- 7.1.3 Subsequent to the commissioning of the Project, if there is any de-commissioning / dismantling activity is taken by SPD for the reasons not attributable to the SPD, LED shall make good of such expenses incurred by SPD for carrying out activities and loss in generation. Loss in generation shall be calculated as per methodology given in Article 8.7.2.

7.1.4 **Auxiliary Power Consumption by the SPD**

SPD shall be entitled to draw the power for its auxiliary consumption from the grid. Auxiliary power shall be adjusted by the Buying Entity from energy billing through net off scheme from the delivered energy, as indicated below:

Net Energy = Delivered Energy by the SPD at Delivery Point - Energy draws from Buying Entity Grid for auxiliaries as recorded at the Delivery Point.

## **ARTICLE 8: BILLING AND PAYMENT**

### **8.1 General**

8.1.1 From the date of commissioning of the project by SPD, the LED shall pay to SPD the monthly Tariff Payments, on or before the Due Date, in accordance with Tariff as specified in Article 7. All Tariff Payments by the LED shall be in Indian Rupees.

### **8.2 Delivery and Content of Monthly Bills**

8.2.1 SPD shall issue to the LED a signed Monthly Bill for the immediately preceding Month/relevant period upto 5<sup>th</sup> Business day of the next month.

8.2.2 The Monthly Bill prepared as per the PPA, shall include the following;

- i) Provisional Bill for Solar Power Supplied in the immediately preceding Month;
- ii) Adjustments against the Provisional Bill(s) based on Joint Meter Reading for the Power Supplied in the Month(s) preceding to the previous month(s);
- ii) Any other adjustments to cover charges related to supply of power and any other prior-period adjustments;
- iii) Late Payment Surcharge, if any (shall be raised through Supplementary Bill);  
and
- iv) Taxes, Duties, Levies etc. as applicable.

### **8.3 Payment of Monthly bills**

8.3.1 LED shall pay the amount payable under the Monthly Bill on or before the Due Date to such account of SPD, as shall have been previously notified by the SPD to the LED in accordance with Article 8.3.2 below.

8.3.2 SPD shall open a bank account (“SPD’s Designated Account”) for all Tariff Payments to be made by the LED to SPD, and notify the LED of the details of such account at least thirty (30) Days before the dispatch of the first Monthly Bill. The LED shall also designate a bank account (the “LED’s Designated Account”) for payments to be made by SPD to the LED, if any, and notify SPD of the details of such account thirty (30) Days before the dispatch of its first request for such payment. SPD and LED shall instruct their respective bankers to make all payments under this Agreement to the Buying Entity’s Designated Account or SPD’s Designated Account, as the case may be, and shall notify either Party of such instructions on the same day.

### 8.3.3 **Late Payment Surcharge**

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

### 8.3.4 **Rebate**

For payment of any Bill including Supplementary Bill on or before Due Date, the following Rebate shall be paid by the SPD to LED in the following manner.

- a. A rebate of 2% shall be payable to LED for the payments made within a period of 3 days of the presentation of Bill through e-mail or hard copy of Bill.
- b. Any payments made after 3 days up to and including the 30th Day from the date of presentation of Bill through e-mail or Hard Copy up to the due date, shall be allowed a rebate of 1%.
- c. No rebate shall be allowed on the Bills raised on account of taxes, duties, cess etc

## 8.4 **Disputed Bill**

8.4.1 If the LED does not dispute a Monthly Bill or a Supplementary Bill raised by the other Party within thirty (30) days of receiving, such Bill shall be taken as conclusive.

8.4.2 If the LED disputes the amount payable under a Monthly Bill or a Supplementary Bill, as it may be, it shall pay the un-disputed amount within thirty (30) days of receiving such Bill, issue a notice (the "Bill Dispute Notice") to the invoicing Party against disputed amount setting out:

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

8.4.3 If the SPD agrees to the claim raised in the Bill Dispute Notice issued pursuant to Article 8.4.2, the SPD shall make appropriate adjustment in the next Monthly Bill.

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

8.4.4 If the SPD does not agree to the claim raised in the Bill Dispute Notice issued pursuant

to Article 8.4.2, it shall, within thirty (30) days of receiving the Bill Dispute Notice, furnish a notice (“Bill Disagreement Notice”) to the LED providing:

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

8.4.5 Upon receipt of the Bill Disagreement Notice by the LED under Article 8.4.4, authorized representative(s) or a director of the board of directors/ member of board of the LED and SPD shall meet and make best endeavours to amicably resolve such dispute within thirty (30) days of receipt of the Bill Disagreement Notice.

8.4.6 If the Parties do not amicably resolve the Dispute within thirty (30) days of receipt of Bill Disagreement Notice pursuant to Article 8.4.4, the matter shall be referred to Dispute resolution in accordance with Article 14.

8.4.7 For the avoidance of doubt, it is clarified that despite a Dispute regarding an Invoice, the LED shall, without prejudice to its right to Dispute, be under an obligation to make payment, of the un-disputed amount in the Monthly Bill.

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

8.5.2 The Parties, therefore, agree that as soon as all such data in respect of any quarter of a Contract Year or a full Contract Year as the case may be has been finally verified and adjusted, the LED and SPD shall jointly sign such reconciliation statement. Within fifteen (15) days of signing of a reconciliation statement, the SPD shall make appropriate adjustments in the following Monthly Bill, with Surcharge/Interest, as applicable. Late Payment Surcharge/ interest shall be payable in such a case from the date on which such payment had been made to the invoicing Party or the date on which any payment was originally due, as may be applicable. Any Dispute with regard to the above reconciliation shall be dealt with in accordance with the provisions of Article 14.

## **8.6 Renewable purchase obligation**

8.6.1 The LED may identify the energy procured from the SPD Delivery Point to meet its renewable purchase obligations (as mandated by the Appropriate Commission). Entire

energy generated from the contracted capacity of the Project shall be sold by SPD to LED and LED agrees to buy the entire energy at a tariff as per Article 7.0.

8.6.2 Provided that the renewable purchase obligation of the LED shall be considered to be met by the LED only if there is no payment default for such energy procured by the LED. A certificate to such effect shall be provided by SPD to LED.

8.6.3 SPD shall provide such certificate identifying the quantum of solar energy supplied by SPD and being met by the LED for each year within thirty (30) days after the end of such year.

**8.7 Offtake constraints due to Connectivity Infrastructure & Grid Unavailability**

8.7.1 Generation Compensation in offtake constraint (Connectivity constraint): After the Scheduled Commissioning Date, if the plant is ready but the necessary power evacuation/ connectivity infrastructure is not ready or limitations of the LED Substation, for reasons not attributable to the SPD, leading to offtake constraint, the provision for generation compensation is as follows:

<b>Connectivity Constraint</b>	<b>Provision for Generation Compensation</b>
If the Project is ready but the necessary power evacuation/ connectivity infrastructure is not ready or limitations of the LED Substation, leading to offtake constraint	The CUF based on the minimum energy requirement, for the period of grid unavailability, shall be taken for the purpose of calculation of generation loss. Corresponding to this generation loss, SPD shall raise bill to LED and shall be paid by the Buying Entity at the PPA tariff so as to offset this loss.

8.7.2 Generation Compensation in offtake constraints due to Grid/ Load Unavailability: During the operation of the Project, there can be some periods where the Project can generate power but due to temporary transmission/ distribution unavailability/ low load availability, the power is not evacuated, for reasons not attributable to the SPD. In such cases the generation compensation shall be addressed in following manner:

<b>Duration of Grid unavailability</b>	<b>Provision for Generation Compensation</b>
Grid unavailability in a Contract Year:	<b><i>Generation Loss = [(Average Generation per hour during the Contract Year) × (number of hours of grid</i></b>

	<p><b><i>unavailability during the Contract Year)]</i></b></p> <p>Where, Average Generation per hour during the Contract Year (kWh) = Total generation in the Contract Year (kWh) ÷ Total hours of generation in the Contract Year.</p> <p>SPD shall raise bill to concern Buying Entity for such generation loss and shall be paid by the Buying Entity at the PPA tariff so as to offset this loss. In case if there is no generation in a Contract Year, generation in the previous Contract Year shall be considered for the purpose of calculation.</p>
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**8.8 Payment Security Mechanism**

**Letter of Credit (LC):**

- 8.8.1 LED shall provide to the SPD, in respect of payment of its Monthly Bills, a monthly unconditional, revolving and irrevocable letter of credit (“Letter of Credit”), opened and maintained which may be drawn upon by the SPD in accordance with this Article.
- 8.8.2 Before the start of supply, LED shall, through a scheduled bank, open a Letter of Credit in favour of the SPD, to be made operative from a date prior to the Due Date of its first Monthly Bill under this Agreement. The Letter of Credit shall have a term of twelve (12) Months and shall be renewed annually, for an amount equal to:
  - i) for the first Contract Year, equal to 110% of the estimated average monthly billing;
  - ii) for each subsequent Contract Year, equal to 110% of the average of the monthly billing of the previous Contract Year.
- 8.8.3 Provided that the SPD shall not draw upon such Letter of Credit prior to the Due Date of the relevant Monthly Bill and/or Supplementary Bill, and shall not make more than one drawal in a Month.
- 8.8.4 Provided further that if at any time, such Letter of Credit amount falls short of the amount specified in Article 8.4.2 due to any reason whatsoever, LED shall restore such shortfall before next drawl.
- 8.8.5 LED shall cause the scheduled bank issuing the Letter of Credit to intimate the SPD, in writing regarding establishing of such irrevocable Letter of Credit.
- 8.8.6 LED shall ensure that the Letter of Credit shall be renewed not later than its current expiry date.

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

8.8.8 If LED fails to pay undisputed Monthly Bill or Supplementary Bill or a part thereof within and including the Due Date, then, subject to Article 8.4.6 & 8.5.2, the SPD may draw upon the Letter of Credit, and accordingly the bank shall pay, an amount equal to such Monthly Bill or Supplementary Bill or part thereof, in accordance with Article 8.4.3 above, by presenting to the scheduled bank issuing the Letter of Credit, the following documents:

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

## **ARTICLE 9: FORCE MAJEURE**

### **9.1 Definition**

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

### **9.2 Affected Party**

9.2.1 An affected Party means SPD or LED whose performance has been adversely affected by an event of Force Majeure.

### **9.3 Force Majeure**

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

- a) Act of God, including, but not limited to lightning, drought, fire and explosion (to the extent originating from a source external to the site), earthquake, volcanic eruption, landslide, flood, cyclone, typhoon, tornado if and only if it is declared/ notified by the competent state/ central authority/ agency (as applicable), resulting in evacuation of power being disrupted from the Delivery Points; or
- b) Explosion, accident or breakage of transmission facilities to deliver power from the Delivery Points to the receiving substation(s); or
- c) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action if and only if it is declared / notified by the competent state / central authority / agency (as applicable), making the performance of obligations as specified herein as impossible; or
- d) Radioactive contamination or ionising radiation originating from a source in India or resulting from another Force Majeure Event mentioned above excluding circumstances where the source or cause of contamination or radiation is brought or has been brought into or near the Power Project by the Affected Party or those employed or engaged by the Affected Party.
- e) An event of force majeure affecting the concerned STU/ CTU/ any other transmission utility, as the case may be, thereby affecting the evacuation of power

from the Delivery Points by the LED/LEDA/Buying Entity.

#### **9.4 Force Majeure Exclusions**

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

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

#### **9.5 Notification of Force Majeure Event**

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

9.5.2 Provided that such notice shall be a pre-condition to the Affected Party's entitlement to claim relief under this Agreement. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed. The Affected Party shall give the other Party regular (and not less than

monthly) reports on the progress of those remedial measures and such other information as the other Party may reasonably request about the Force Majeure Event.

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

## **9.6 Duty to Perform and Duty to Mitigate**

- 9.6.1 To the extent not prevented by a Force Majeure Event pursuant to Article 9.3, the Affected Party shall continue to perform its obligations pursuant to this Agreement. The Affected Party shall use its reasonable efforts to mitigate the effect of any Force Majeure Event as soon as practicable.

## **9.7 Available Relief for a Force Majeure Event**

- 9.7.1 Subject to this Article 9:
- (a) no Party shall be in breach of its obligations pursuant to this Agreement to the extent that the performance of its obligations was prevented, hindered or delayed due to a Force Majeure Event;
  - (b) every Party shall be entitled to claim relief in relation to a Force Majeure Event in regard to its obligations as specified under this Agreement, including but not limited to those specified under Article 4.5;
  - (c) For avoidance of doubt, neither Party's obligation to make payments of money due and payable for the period prior to occurrence of Force Majeure events under this Agreement shall be suspended or excused due to the occurrence of a Force Majeure Event in respect of such Party.
  - (d) Provided that no payments shall be made by either Party affected by a Force Majeure Event for the period of such event on account of its inability to perform its obligations due to such Force Majeure Event.

## **ARTICLE 10: CHANGE IN LAW**

### **10.1 Definitions**

In these rules, unless the context otherwise requires,

10.1.1 In this Article 10, the term “Change in Law” shall refer to the occurrence of any of the following events pertaining to this project only after \_\_\_\_ [Enter the date of e-Reverse Auction (e-RA) conducted under the referred RfS], including any enactment or amendment or repeal of any law, leading to corresponding changes in the cost requiring change in tariff, and includes:

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

but shall not include-

- any change in any withholding tax on income or dividends distributed to the shareholders of of the generating company (SPD); or
- change in respect of deviation settlement charges or frequency intervals by an Appropriate Commission.

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

### **10.2 Adjustment in tariff on account of Change in Law**

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

10.2.2 For the purposes of 10.2.1 above, the affected party, which intends to adjust and recover the costs due to change in law, shall give a 21 days’ prior notice to the other party about the proposed impact in the tariff or charges, positive or negative, to be recovered from such other party.

- 10.2.3 The affected party shall furnish to the other party, the computation of impact in tariff or charges to be adjusted and recovered, within thirty days of the occurrence of the change in law or on the expiry of 21 days from the date of the notice referred to in 10.2.2 above, whichever is later, and the recovery of the proposed impact in tariff or charges shall start from the next billing cycle of the tariff.
- 10.2.4 The impact of change in law to be adjusted and recovered may be computed as one time or monthly charges or per unit basis or a combination thereof and shall be recovered in the monthly bill as the part of tariff.
- 10.2.5 The amount of the impact of change in law to be adjusted and recovered, shall be calculated in accordance with the formula given here under to calculate adjustment in the monthly tariff due to impact of change in law, which is non-recurring in nature.

Let financial impact of change in law=P

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

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

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

Where, -

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

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

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

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

Further, generating company or intermediary procurer or the trading licensee shall true up the MT annually based on actual generation of the year so as to ensure that the

payment to the affected party is capped at the yearly annuity amount.

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

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

- 10.2.6 The recovery of the impacted amount, in case of the fixed amount shall be,
- a. In case of generation project, within a period of one-hundred eighty months; or
  - b. In case of recurring impact, until the impact persists.
- 10.2.7 The SPD shall, within thirty days of the coming into effect of the recovery of impact of change in law, furnish all relevant documents along with the details of calculation to the Appropriate Commission for adjustment of the amount of the impact in the monthly tariff or charges.
- 10.2.8 The Appropriate Commission shall verify the calculation and adjust the amount of the impact in the monthly tariff or charges within sixty days from the date of receipt of the relevant documents under Article 10.2.7.
- 10.2.9 After the adjustment of the amount of the impact in the monthly tariff or charges under Article 10.2.8, the SPD, shall adjust the monthly tariff or charges annually based on actual amount recovered, to ensure that the payment to the affected party is not more than the yearly annuity amount.
- 10.2.10 In the event of any decrease in the project cost by the SPD or any income to the SPD on account of any of the events as indicated above, SPD shall pass on the benefit of such reduction at a rate as provided in Article 10.2 to the Buying Entity. In the event of the SPD failing to comply with the above requirement, LED shall make such deductions in the monthly tariff payments on immediate basis. Further, at the time of raising of 1st Monthly Tariff Payment Bill, SPD shall be required to provide a statutory auditor certificate supported by Board Resolution in regard to implications (loss/ gain) arising out of Article 10.
- 10.2.11 Any notice service pursuant to this Article 10.2.7, shall provide, amongst other things, precise details of the Change in Law and its effect on the Project Cost, supported by documentary evidences including Statutory Auditor Certificate to this effect so as to establish one to one correlation and its impact on the Project Cost.
- 10.2.12 "Project Cost" wherever applicable under this Article, shall mean the cost incurred by the SPD towards supply and services only for the Project concerned, upto the actual date of commencement of power supply upto the SCD/extended SCD, whichever is

## SPD-LED PPA

earlier. For example, in case the SCD is 15.03.2024 and extended SCD is 01.04.2024, the Project Cost shall be determined as the cost incurred by the SPD upto 15.03.2024.

## **ARTICLE 11: EVENTS OF DEFAULT AND TERMINATION**

### **11.1 LED's Event of Default**

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

- (i) LED fails to pay (with respect to a Monthly Bill or a Supplementary Bill), subject to Article 8.6 for a period of ninety (90) days after the Due Date; or
- (ii) The LED fails to evacuate power from the Delivery Points for a continuous period of ninety (90) days.
- (iii) Early termination of this Agreement or any other associated agreements (like water surface usage, land usage etc.) including invocation of any of the permits, approval or clearances for reasons not attributable to SPD.
- (iv) if (a) the LED becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of sixty (60) days, or (b) any winding up or bankruptcy or insolvency order is passed against LED, or (c) the LED goes into liquidation or dissolution or has a receiver or any similar officer appointed over all or substantially all of its assets or official liquidator is appointed to manage its affairs, pursuant to Law,  
Provided that a dissolution or liquidation of the LED will not be a LED Event of Default if such dissolution or liquidation is for the purpose of a merger, consolidation or reorganization and where the resulting company retains creditworthiness similar to the LED and expressly assumes all obligations of the LED under this Agreement and is in a position to perform them; or
- (v) the LED repudiates this Agreement and does not rectify such breach within a period of thirty (30) days from a notice from SPD in this regard; or
- (vi) except where due to any SPD's failure to comply with its material obligations, the LED is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the LED within sixty (60) days of receipt of first notice in this regard given by SPD to LED,
- (vii) Occurrence of any other event which is specified in this Agreement to be a material breach/ default of the Buying Entity.

## **11.2 Procedure for cases of LED's Event of Default**

- 11.2.1 Upon the occurrence and continuation of any LED's Event of Default specified in Article 11.1, SPD shall have the right to deliver to the LED a notice, an SPD Preliminary Default Notice, which shall specify in reasonable detail, the circumstances giving rise to the issue of such notice.
- 11.2.2 Following the issue of LED Preliminary Default Notice, the Consultation Period of ninety (90) days or such longer period as the Parties may agree, shall apply and it shall be the responsibility of the Parties to discuss as to what steps shall have to be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.
- 11.2.3 During the Consultation Period, the Parties shall, save as otherwise provided in this Agreement, continue to perform their respective obligations under this Agreement.
- 11.2.4 After following the expiry of the Consultation Period and unless the Parties shall have otherwise agreed to the contrary or Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, then the SPD may terminate the PPA and LED shall be required to take over the Project assets by making a payment of the termination compensation equivalent to the amount of the debt due and 110% (one hundred and ten per cent) of the adjusted equity.
- 11.2.5 In the event of termination of PPA for reasons not attributable to SPD, any damages or charges payable by the SPD to LED and Administration of UT of Lakshadweep, shall be borne by the LED.

## **11.3 SPD's Event of Default**

- 11.3.1 The occurrence and continuation of any of the following events, unless any such event occurs as a result of a Force Majeure Event or a breach by the LED of its obligations under this Agreement, shall constitute SPD's Event of Default:
- i. the failure to commence supply of power to LED up to the Contracted Capacity, by the end of the period specified in Article 5, or failure to continue supply of annual energy to LED after the commencement of supply of power, for any Contract Year (except for the first and final Contract Years), throughout the term of this Agreement, relevant to the scheduled COD as revised / extended under the provisions of this agreement, or
  - ii. non-supply of power by SPD to LED for a continuous period of 90 days or more; or if

- a. the SPD assigns, mortgages or charges or purports to assign, mortgage or charge any of its assets or rights related to the Power Project in contravention of the provisions of this Agreement; or
- b. the SPD transfers or novates any of its rights and/ or obligations under this agreement, in a manner contrary to the provisions of this Agreement; except where such transfer
  - is in pursuance of a Law; and does not affect the ability of the transferee to perform, and such transferee has the financial capability to perform, its obligations under this Agreement or
  - is to a transferee who assumes such obligations under this Agreement and the Agreement remains effective with respect to the transferee;
- iii. if (a) the SPD becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of thirty (30) days, or (b) any winding up or bankruptcy or insolvency order is passed against the SPD, or (c) the SPD goes into liquidation or dissolution or has a receiver or any similar officer appointed over all or substantially all of its assets or official liquidator is appointed to manage its affairs, pursuant to Law, Provided that a dissolution or liquidation of SPD will not be a SPD Event of Default if such dissolution or liquidation is for the purpose of a merger, consolidation or reorganization and where the resulting company continues to meet the financial & technical requirements and retains creditworthiness similar to SPD and expressly assumes all obligations of SPD under this Agreement and is in a position to perform them; or
- iv. SPD repudiates this Agreement and does not rectify such breach within a period of thirty (30) days from a notice from the Buyer in this regard; or
- v. except where due to any LED's failure to comply with its material obligations, the SPD is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the SPD within thirty (30) days of receipt of first notice in this regard given by LED; or
- vi. change in shareholding of the SPD before the specified time frame as mentioned in Article 4.1.1 of this Agreement, without prior consent of LED; or ceding of control by the promoters of M/s ..... [Insert name of the bidding company which was issued LoA by SECI under the RfS] within 1 year of SCD, without prior

consent of LED; or

- vii. occurrence of any other event which is specified in this Agreement to be a material breach/ default of the SPD; or

#### **11.4 Procedure for cases of SPD's Event of Default**

- 11.4.1 Upon the occurrence and continuation of any SPD Event of Default under Article 11.3, LED shall have the right to deliver SPD a notice, with a copy to the representative of the lenders to the SPD with whom the SPD has executed the Financing Agreements, a notice stating its intention to terminate this Agreement (LED Preliminary Default Notice), which shall specify in reasonable detail, the circumstances giving rise to the issue of such notice.
- 11.4.2 Following the issue of Default Notice, the Consultation Period of ninety (90) days or such longer period as the Parties may agree, shall apply and it shall be the responsibility of the Parties to discuss as to what steps shall have to be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.
- 11.4.3 During the Consultation Period, the Parties shall, save as otherwise provided in this Agreement, continue to perform their respective obligations under this Agreement.
- 11.4.4 Within a period of seven (7) days following the expiry of the Consultation Period unless the Parties shall have otherwise agreed to the contrary or SPD Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, Buying Entity may terminate this Agreement by giving a written Termination Notice of sixty (60) days to SPD.
- 11.4.5 Subject to the terms of this Agreement, upon occurrence of a SPD Event of Default under this Agreement, the SPD shall be liable to pay penalty to LED, as provided in Article 4.6 of the PPA for failure to commence supply of power within the stipulated time and Article 4.4.1 for failure to supply power in terms of the PPA. For other cases, the SPD shall be liable to pay to Buying Entity, damages, equivalent to 6 (six) months, or balance PPA period, whichever is less, of tariff for its Contracted Capacity, corresponding to the committed annual Energy Units.
- 11.4.6 SECI in consultation with LED shall have the right to recover the said damages by way of forfeiture of bank guarantee/Payment on Order Instrument, if any, without prejudice to resorting to any other legal course or remedy.
- 11.4.7 In addition to the levy of damages as aforesaid, the lenders in concurrence with the

Buying Entity, may exercise their rights, if any, under Financing Agreements, to seek substitution of the SPD by a selectee for the residual period of the Agreement, for the purpose of securing the payments of the total debt amount from the SPD and performing the obligations of the SPD. However, in the event the lenders are unable to substitute the defaulting SPD within the stipulated period, LED may terminate the PPA. Provided that any substitution under this Agreement can only be made with the prior consent of LED including the condition that the selectee meets the eligibility requirements of Request for Selection (RfS) issued by SECI and accepts the terms and conditions of this Agreement.

- 11.4.8 The lenders in concurrence with the Buying Entity, may seek to exercise right of substitution under Article 11.4.5 by an amendment or novation of the PPA in favour of the selectee. The SPD shall cooperate with LED to carry out such substitution and shall have the duty and obligation to continue to operate the Power Project in accordance with this PPA till such time as the substitution is finalized. In the event of Change in Shareholding/Substitution of Promoters triggered by the Financial Institutions leading to signing of fresh PPA with a new entity, an amount of Rs. 10 Lakh per Project+ 18% GST per transaction as facilitation fee (non-refundable) shall be deposited by the SPD to SECI.

## **11.5 Termination due to Force Majeure**

- 11.5.1 If the Force Majeure Event or its effects continue to be present beyond a period of twelve (12) months; either Party shall have the right to cause termination of the Agreement. In such an event this Agreement shall terminate on the date of such Termination Notice without any further liability to either Party from the date of such termination.

## **ARTICLE 12: LIABILITY AND INDEMNIFICATION**

### **12.1 Indemnity**

12.1.1 The SPD shall indemnify, defend and hold SECI/LEDA/LED harmless against:

- a) any and all third party claims against SECI/LEDA/LED for any loss of or damage to property of such third party, or death or injury to such third party, arising out of a breach by the SPD of any of its obligations under this Agreement or due to the SPD's willful misconduct, gross negligence or fraudulent behavior or violations of Applicable Law; and
- b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest actually suffered or incurred by SECI/LEDA/LED from third party claims arising by reason of a breach by the SPD of any of its obligations under this Agreement, (provided that this Article 12 shall not apply to such breaches by the SPD, for which specific remedies have been provided for under this Agreement).

12.1.2 LED shall indemnify, defend and hold the SPD harmless against:

- a) any and all third party claims against the SPD, for any loss of or damage to property of such third party, or death or injury to such third party, arising out of a breach by LED of any of their obligations under this Agreement; and
- b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest ('Indemnifiable Losses') actually suffered or incurred by the SPD from third party claims arising by reason of a breach by LED of any of its obligations. In so far as indemnity to SPD is concerned, LED shall be the indemnifying party and not SECI.

### **12.2 Procedure for claiming Indemnity**

12.2.1 Third party claims

- a. Where the Indemnified Party is entitled to indemnification from the Indemnifying Party pursuant to Article 12.1.1(a) or 12.1.2(a), the Indemnified Party shall promptly notify the Indemnifying Party of such claim referred to in Article 12.1.1(a) or 12.1.2(a) in respect of which it is entitled to be indemnified.

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

- i) the Parties choose to refer the dispute in accordance with Article 14; and
- ii) the claim amount is not required to be paid/ deposited to such third party pending the resolution of the Dispute,

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

- b. The Indemnified Party may contest the claim by referring to the Appropriate Commission for which it is entitled to be Indemnified under Article 12.1.1(a) or 12.1.2(a) and the Indemnifying Party shall reimburse to the Indemnified Party all reasonable costs and expenses incurred by the Indemnified party. However, such Indemnified Party shall not settle or compromise such claim without first getting the consent of the Indemnifying Party, which consent shall not be unreasonably withheld or delayed.

An Indemnifying Party may, at its own expense, assume control of the defence of any proceedings brought against the Indemnified Party if it acknowledges its obligation to indemnify such Indemnified Party, gives such Indemnified Party prompt notice of its intention to assume control of the defence, and employs an independent legal counsel at its own cost that is reasonably satisfactory to the Indemnified Party.

### **12.3 Indemnifiable Losses**

- 12.3.1 Where an Indemnified Party is entitled to Indemnifiable Losses from the Indemnifying Party pursuant to Article 12.1.1(b) or 12.1.2(b), the Indemnified Party shall promptly notify the Indemnifying Party of the Indemnifiable Losses actually incurred by the Indemnified Party. The Indemnifiable Losses shall be reimbursed by the Indemnifying Party within thirty (30) days of receipt of the notice seeking Indemnifiable Losses by the Indemnified Party. In case of nonpayment of such losses after a valid notice under this Article 12.3, such event shall constitute a payment default under Article 11.

### **12.4 Limitation on Liability**

- 12.4.1 Except as expressly provided in this Agreement, neither the SPD nor SECI nor LED nor its/ their respective officers, directors, agents, employees or affiliates (or their officers, directors, agents or employees), shall be liable or responsible to the other Party

or its affiliates, officers, directors, agents, employees, successors or permitted assigns or their respective insurers for incidental, indirect or consequential damages, connected with or resulting from performance or non-performance of this Agreement, or anything done in connection herewith, including claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under this Agreement), any increased expense of, reduction in or loss of power generation or equipment used therefore, irrespective of whether such claims are based upon breach of warranty, tort (including negligence, whether of Buying Entity, the SPD or others), strict liability, contract, breach of statutory duty, operation of law or otherwise.

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

## **12.5 Duty to Mitigate**

12.5.1 The Parties shall endeavour to take all reasonable steps so as mitigate any loss or damage which has occurred under this Article 12.

## **ARTICLE 13: ASSIGNMENTS AND CHARGES**

### **12.1 Assignments**

12.1.1 This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assignees. This Agreement shall not be assigned by any Party, except to the Project Lenders or Lender's Representative as security for their debt under the Financing Agreements, other than by mutual consent between the Parties to be evidenced in writing:

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

Provided further that any successor(s) or permitted assignee(s) identified after mutual agreement between the Parties may be required to execute a new agreement on the same terms and conditions as are included in this Agreement.

### **12.2 Permitted Charges**

13.2.1 Neither Party shall create or permit to subsist any encumbrance over all or any of its rights and benefits under this Agreement.

## **ARTICLE 14: GOVERNING LAW AND DISPUTE RESOLUTION**

### **14.1 Governing Law**

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

### **14.2 Amicable Settlement and Dispute Resolution**

#### **14.2.1 Amicable Settlement**

- i. Either Party is entitled to raise any claim, dispute or difference of whatever nature arising under, out of or in connection with this Agreement (“Dispute”) by giving a written notice (Dispute Notice) to the other Party, which shall contain:
  - (i) a description of the Dispute;
  - (ii) the grounds for such Dispute; and
  - (iii) all written material in support of its claim.
- ii. The other Party shall, within thirty (30) days of issue of Dispute Notice issued under Article 14.2.1 (i), furnish:
  - (i) counter-claim and defences, if any, regarding the Dispute; and
  - (ii) all written material in support of its defences and counter-claim.
- iii. Within thirty (30) days of issue of Dispute Notice by any Party pursuant to Article 14.2.1 (i),
  - (i) if the other Party does not furnish any counter claim or defence under Article 14, or
  - (ii) thirty (30) days from the date of furnishing counter claims or defence by the other Party, both the Parties to the Dispute shall meet to settle such Dispute amicably. If the Parties fail to resolve the Dispute amicably within thirty (30) days from the later of the dates mentioned in this Article 14.2.1 (i),
  - (iii) the Dispute shall be referred for dispute resolution in accordance with Article 14.3.

### **14.3 Dispute Resolution**

#### **14.3.1 Dispute Resolution by the Appropriate Commission**

- i. Where any Dispute (i) arises from a claim made by any Party for any change in or determination of the Tariff or any matter related to Tariff or claims made by any Party which partly or wholly relate to any change in the Tariff or determination of any of such claims could result in change in the Tariff, or (ii) relates to any matter agreed to be referred to the Appropriate Commission, such Dispute shall be submitted to adjudication by the Appropriate Commission. Appeal against the decisions of the Appropriate Commission shall be made only as per the provisions of the Electricity Act, 2003, as amended from time to time.
- ii. The obligations of the LED under this Agreement towards SPD shall not be affected in any manner by reason of inter-se disputes amongst the Buying Entity.

### **14.4 Parties to Perform Obligations**

- 14.4.1 Notwithstanding the existence of any Dispute and difference referred to the Appropriate Commission or the Arbitration Tribunal as provided in Article 14.3 and save as the Appropriate Commission or the Arbitration Tribunal may otherwise direct by a final or interim order, the Parties hereto shall continue to perform their respective obligations (which are not in dispute) under this Agreement.

## **ARTICLE 15: INSURANCES**

### **15.1 Insurance**

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

### **15.2 Application of Insurance Proceeds**

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

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

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

### **15.3 Effect on liability of LED**

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

## **ARTICLE 16: MISCELLANEOUS PROVISIONS**

### **16.1 Amendment**

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

### **16.2 Third Party Beneficiaries**

16.2.1 This Agreement is solely for the benefit of the Parties and their respective successors and permitted assignees and shall not be construed as creating any duty, standard of care or any liability to, any person not a party to this Agreement.

### **16.3 Waiver**

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

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

### **16.4 Confidentiality**

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

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

### **16.5 Severability**

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

## **16.6 Notices**

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

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

Address:

Attention:

e-mail:

Fax. No.:

Telephone No.:

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

Address:

Attention:

e-mail:

Fax. No.:

Telephone No.:

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

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

## **16.7 Language**

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

16.7.2 If any of the agreements, correspondence, communications or documents are prepared

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

### **16.8 Restriction of Shareholders / Owners' Liability**

16.8.1 Parties expressly agree and acknowledge that none of the shareholders of the Parties hereto shall be liable to the other Parties for any of the contractual obligations of the concerned Party under this Agreement. Further, the financial liabilities of the shareholder/s of each Party to this Agreement shall be restricted to the extent provided in the Indian Companies Act, 1956 or the Indian Companies Act 2013 as applicable.

### **16.9 Taxes and Duties**

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

16.9.2 SPD shall be indemnified and held harmless by the Buying Entity against any claims that may be made against SECI in relation to the matters set out in Article 16.9.1.

16.9.3 SPD shall not be liable for any payment of, taxes, duties, levies, cess whatsoever for discharging any obligation of the Buying Entity by SPD on behalf of Buying Entity or its personnel

### **16.10 No Consequential or Indirect Losses**

16.10.1 The liability of the LED shall be limited to that explicitly provided in this Agreement. Provided that notwithstanding anything contained in this Agreement, under no event shall SPD or the LED claim from one another any indirect or consequential losses or damages.

### **16.11 Order of priority in application**

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

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

### **16.12 Independent Entity**

16.12.1 The LED shall be an independent entity performing its obligations pursuant to the Agreement.

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

16.12.3 The SPD shall be an independent entity performing its obligations pursuant to the Agreement.

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

### **16.13 Compliance with Law**

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

### **16.14 Breach of Obligations**

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

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

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

For and on behalf of  
**[SPD]**

For and on behalf of  
**[Lakshadweep Electricity Department]**

Name, Designation and Address

Name, Designation and Address

(Signature with Seal)

(Signature with Seal)

Witness:

1.

2

Witness:

1.

2.

***SCHEDULE-1: LOCATION DETAILS OF THE PROJECT***

**SCHEDULE-2: FORMAT FOR PERFORMANCE BANK GUARANTEE (PBG)**

*(To be submitted Separately for each Project)*

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

Reference: .....

Bank Guarantee No.: .....

Date: .....

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

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

This guarantee shall be valid and binding on this Bank up to and including ..... and shall not be terminable by notice or any change in the constitution of the Bank or the term of contract or by any other reasons whatsoever and our liability hereunder shall not be impaired

or discharged by any extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between parties to the respective agreement. Our liability under this Guarantee is restricted to INR \_\_\_\_\_ (Indian Rupees \_\_\_\_\_ Only).

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

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

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

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

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

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

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

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

The Guarantor Bank acknowledges that this BANK GUARANTEE is not personal to SECI and may be assigned, in whole or in part, (whether absolutely or by way of security) by SECI

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to any entity to whom SECI is entitled to assign its rights and obligations under the PPA.

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to INR \_\_\_\_\_ (Indian Rupees \_\_\_\_\_ Only) and it shall remain in force until ..... We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if SECI serves upon us a written claim or demand.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

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

For

\_\_\_\_\_ *[Insert Name and Address of the Bank]* \_\_\_\_\_

Contact Details of the Bank:

E-mail ID of the Bank:

Banker's Stamp and Full Address.

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

Witness:

1. ....

Signature

Name and Address

2. ....

Signature

Name and Address

Notes:

1. The Stamp Paper should be in the name of the Executing Bank and of appropriate value.

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

**SCHEDULE 2: FORMAT OF PAYMENT ON ORDER INSTRUMENT TO BE ISSUED  
BY IREDA/REC/PFC (IN LIEU OF PBG)  
(to be submitted separately for each Project)**

No.

Date

**SECI,**

**Registered**

\_\_\_\_\_,  
\_\_\_\_\_

**Reg: M/s \_\_\_\_\_(insert name of the PPA signing entity) (Project No. \_\_\_\_\_(insert project ID issued by SECI) – Issuance of Payment on Order Instrument for an amount of Rs.\_\_\_\_\_**

Dear Sir,

1. It is to be noted that M/s. \_\_\_\_\_(insert name of the POI issuing Agency)(‘IREDA/REC/PFC’) has sanctioned a non-fund-based limit loan of Rs. \_\_\_\_\_ (Rupees\_\_\_\_\_only) to M/s \_\_\_\_\_ under the Loan Agreement executed on \_\_\_\_\_ to execute Renewable Energy Projects.

2. At the request of M/s \_\_\_\_\_, on behalf of \_\_\_\_\_ (insert name of the SPV), this Payment on Order Instrument (POI) for an amount of Rs. \_\_\_\_\_(Rupees\_\_\_\_\_ (in words)). This Payment on Order Instrument comes into force immediately.

3. In consideration of the ----- [Insert name of the selected Solar Power Developer] (hereinafter referred to as selected Solar Power Developer') submitting the response to RfS inter alia for selection of capacity of ..... kW, at .....[Insert name of the place] under RfS for ..... [Insert name of the RfS], for supply of power there from on long term basis to Lakshadweep Electricity Department (LED), in response to the RfS dated..... issued by Solar Energy Corporation of India Ltd (hereinafter referred to as SECI) and SECI considering such response to the RfS of .....[insert the name of the selected Solar Power Developer] (which expression shall unless repugnant to the context or meaning thereof include its executors, administrators, successors and assignees) and selecting the Solar Power Project of the Solar Power Developer and issuing Letter of Award No ----- to (Insert Name of selected Solar Power Developer) as per terms of RfS and the same having been accepted by the selected SPD resulting in a Power Purchase Agreement (PPA) to be entered

into, for purchase of Power [from selected Solar Power Developer or a Project Company, M/s ----- {a Special Purpose Vehicle (SPV) formed for this purpose}, if applicable ]. As per the terms of the RfS, the \_\_\_\_\_ [insert name & address of IREDA/PFC/REC] hereby agrees unequivocally, irrevocably and unconditionally to pay to SECI at [Insert Name of the Place from the address of the SECI] forthwith on demand in writing from SECI or any Officer authorized by it in this behalf, any amount up to and not exceeding Rupees----- [Total Value] only, on behalf of M/s \_\_\_\_\_ [Insert name of the selected Solar Power Developer / Project Company]

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

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

not require SECI to justify the invocation of the POI against the SPV/SPD, to make any claim against or any demand against the SPV/SPD or to give any notice to the SPV/SPD;

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

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

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

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

Thanking you,

Yours faithfully

For and on behalf of

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

**(name of the POI issuing agency).**

( )

General Manager (TS)

Copy to:-

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

\_\_\_\_\_

\_\_\_\_\_ As per their request

( )

General Manager (TS)

***SCHEDULE-4: COMMISSIONING PROCEDURE***

**1. Capacity of Solar PV Projects:**

- a. The SPD shall be required to demonstrate compliances with the “Annexure-B: *Scope of work, technical specifications & standards for grid-connected solar pv systems/power plants*” as mentioned in the RfS.
- b. For commissioning of the Project, cumulative capacity of DC arrays and cumulative capacity of the inverters installed shall be considered.
- c. If generation at any time exceeds the maximum permissible AC capacity at delivery point, the excess generation during that period may not be considered under PPA.

**2. Commissioning Procedure**

The Solar PV Project will be declared as commissioned when all equipment as per rated project capacity has been installed and energy from the Project has flown into the grid, which will be verified by a committee/agency identified by SECI/LEDA/LED to witness the Commissioning of the Project.

Following is the chronology of the procedure to be followed for commissioning of the Project.

- i. SPDs shall give LEDA, LED and SECI at least thirty (30) days advance written notice, of the date on which it intends to synchronize the Power Project to the Grid System. The SPD shall be solely responsible for any delay or non-receipt of the notice by the concerned agencies, which may in turn affect the Commissioning Schedule of the Project.
- ii. Not more than 15 days prior to the proposed commissioning date, the SPD shall give the final written notice to LEDA, LED and SECI. Following documents are required to be submitted by the SPD, physically in the office of SECI, at least 15 days prior to Proposed/ Scheduled Date of Commissioning, along with the above notice, duly stamped and signed by the Authorized Signatory (scanned copies may also be allowed):
  - a. Covering Letter
  - b. Board resolution for authorized signatory for signing the documents related to commissioning of the Project and witnessing the commissioning.
  - c. Installation report duly signed by the authorized signatory. The SPD is advised to take due care in furnishing such Installation Report. Discrepancy (if any) if observed by SECI/LEDA/LED, may be construed as misrepresentation of information by the SPD and SECI/LEDA/LED may take appropriate action as per this Agreement.

- d. Invoices against purchase of the solar modules, Inverters/PCUs, WMS, SCADA and DC cables along with the summary sheet containing the list of all the invoices, inverters including details and number of items.
  - e. All supporting documents towards meeting the technical compliance along with datasheet/ warranty certificates/ contract agreement etc. as mentioned in Annexure-B of the RfS.
  - f. Snap shots (with timestamp) of the plant, including but not limited to, solar PV modules, all inverters (showing instantaneous and total generation of a particular date), switchyards/switchgears, Power Transformers, metering (as per applicable regulations) at delivery point etc. along with the Installation Report.
  - g. Plant Layout, Plant (AC & DC) SLD, along with Inverter-wise module details.
  - h. Charging code/Permission for charging the generating station issued by concerned department/ LED/ LEDA.
  - i. CEI/CEIG (as applicable) report containing approval for all the components, including modules, inverters, transformers and protection system, along with all annexures/attachments. It would be the responsibility of the SPD to obtain the certificate.
  - j. Confirmation of compliance to all requirements of grid by concerned department/ LED/ LEDA.
- iii. Commissioning Committee/Agency shall visit the project site and if the Project meets requirements as per the provisions of the RfS as verified by the Commissioning Committee/Agency witnessing the commissioning, the Project shall be declared as having been commissioned and the date of Commissioning of the Project in this case, shall be the actual date of visit of the Commissioning Committee/Agency .The date of Commissioning of the Project may be indicated in the Minutes of Meeting of the Committee/ recommendation of the Agency visiting the Project. Any other observation contrary to the above, shall be clearly indicated in the Minutes/recommendations and further decision on commissioning of the Project shall be taken in this regard.
- iv. LED may issue the Commissioning Certificate based on compliance with aforesaid points.

**Installation Report**

*(To be provided by SPD and to be submitted at most 7 days prior to proposed commissioning date, which shall be verified by Commissioning Committee)*

S. No.	Capacity of the Project	
	Capacity proposed to be commissioned	
I.	Technology used (Mono/Multi Crystalline / thin film / Others; please specify along with capacity of each type)	
II.	Type of Tilt (Fixed Tilt/Seasonal Tilt/Tracking)	
III.	Rating of each module (Wp)	
IV.	Number of modules installed of each type (along with Serial Nos. of all the modules installed)	
V.	Make of Module(s) installed of each type (including name of the Supplier and country of origin)	
VI.	Number of PCUs / Inverters installed (along with Serial Nos. of all the PCUs/Inverters installed)	
VII.	Make of the PCUs / Inverters (including name of supplier and country of origin)	
IX.	Rating of PCUs / Inverters	
X.	Date of installation of full capacity (as per capacity proposed to be commissioned)	
	PV arrays	
	PCUs / Inverters	
	Transformers	
	BESS Capacity	