

**STANDARD
BATTERY ENERGY STORAGE PURCHASE AGREEMENT**

FOR

**PROCUREMENT OF _____ MW/ ____ MWh
ON LONG TERM BASIS**

Between

..... [Insert Name of BESSD]

And

GRIDCO Limited

..... [Insert month and year]

This Battery Energy Storage Purchase Agreement (hereinafter called as “BESPA”) is made on the[Insert date] day of[Insert month] of [Insert year] at [Insert place]

Between

..... [Insert name of the BESSD], a Company incorporated under the Companies Act 1956 or Companies Act 2013, having its registered office at [Insert address of the registered office of BESSD] (hereinafter referred to as “**Battery Energy Storage System Developer**” or “**Storage Project Developer**” or “**BESSD**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its executors, successors and permitted assigns) as a Party of the **First Part**;

And

GRIDCO Limited, a company incorporated under the Companies Act ___, having its registered office at _____ (hereinafter referred to as “**GRIDCO**”, or “**Procurer**” or “**Buyer**” which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its executors, successors and permitted assigns) as a Party of the **Second Part**;

The BESSD and GRIDCO are individually referred to as the ‘Party’ and collectively referred to as the ‘Parties’.

WHEREAS:

- A. The Ministry of Power, Government of India has issued the “*Guidelines for Procurement and Utilization of Battery Energy Storage Systems as part of Generation, Transmission and Distribution assets, along with Ancillary Services*” vide Resolution dated 10th March 2022, including subsequent amendments and clarifications thereof, if any, and “*Guidelines Viability Gap Funding (VGF) Scheme for development of Battery Energy Storage Systems supported through Power System Development Fund (PSDF)*” issued by the Ministry of Power dated 09.06.2025 including its subsequent amendments and clarifications thereof, if any, issued until _____ [Enter the last date of bid submission of the RfS].
- B. SECI, on behalf of GRIDCO, had initiated a Tariff Based Competitive Bid Process for development of 500 MWh (125 MW X 4 hrs.) of Grid connected Battery Energy

Storage Project (Project) on the terms and conditions contained in the Request for Selection Documents (herein after referred to as ‘RfS’) issued by SECI vide RfS No..... dated..... .

- C. GRIDCO has issued the Letter of Award No..... dated in favor of the _____[Insert name of the Bidding Company] for development and establishment of the ___ MW/ ___ MWh of “Project” or “BESS” at a location provided at _____, S/s in the State of Odisha as per the terms and conditions contained in the RfS, this Battery Energy Storage Purchase Agreement (BESPA) and other bidding documents as well as the conditions contained in the Letter of Award.
- 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 [**Insert Name of the SPV**] (hereinafter referred to as ‘**BESSD**’), for development, and supply of BESS Capacity from the ___ MW/ ___ MWh of the Project / BESS to be established by BESSD in _____, S/s in the State of Odisha and for making available of such Battery Energy Storage Capacity to GRIDCO Limited (GRIDCO).
- E. GRIDCO has agreed to purchase such Battery Energy Storage Capacity from the BESSD as per the provisions of the above said Guidelines and RfS.
- F. In terms of the RfS and the Bidding Documents, the BESSD has furnished the Performance Bank Guarantee/ -Insurance Surety Bond in the sum of Rs.....in favour of GRIDCO as per the format provided as a part of the Bidding Documents and a copy of the Bank Guarantee/ Insurance Surety Bond provided in Schedule – 1/ Schedule – 2 to this Agreement;
- G. BESSD has fulfilled the terms of the RfS Documents and the terms of the Letter of Award for signing this Battery Energy Storage Purchase Agreement as a definitive agreement for developing the “Project” (or “BESS”) of ___ MW/ ___ MWh at _____ S/s in the State of Odisha for making available Battery Energy Storage Capacity by the BESSD to GRIDCO;

- H. Viability Gap Funding: BESSD is eligible for grant of Viability Gap Funding (VGF) supported through Power System Development Fund (PSDF) scheme issued by Ministry of Power vide F. No. 48-15/7/2025-NRE SECTION dated 09.06.2025, to be released as per the provisions contained in the Scheme, RfS and this agreement. VGF shall be passed on to the BESS Developers as per the terms & condition and modalities detailed in the PSDF Scheme. The VGF will be disbursed through the GRIDCO.
- I. The parties have agreed to execute this Battery Energy Storage 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 development of the Project at, [Insert name of state] on Build Own Operate (BOO) basis and for making available such Battery Energy Storage Capacity by the BESSD to GRIDCO.

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

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

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

“Act” or “Electricity Act, 2003”	shall mean the Electricity Act, 2003 and include any modifications, amendments and substitution from time to time;
“Adjusted Equity”	<p>shall mean the Equity funded in Indian Rupees and adjusted on the first day of the current month (the “Reference Date”), in the manner set forth below, to reflect the change in its value on account of depreciation and variations in Wholesale Price Index (WPI), and for any Reference Date occurring between the first day of the month of Appointed Date (the date of achievement of Financial Closure) and the Reference Date;</p> <ol style="list-style-type: none"> 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; An amount equal to the Adjusted Equity as on COD shall be deemed to be the base (the “Base Adjusted Equity”); After COD, the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, reduced by X% (wherein $X = 100\% / (12 * \text{Term of BESPA})$) thereof at the commencement of each month following the COD 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>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 BSPA period is extended, but the revision on account of WPI shall continue to be made.</p>
“Agreement” or “Battery Energy Storage Purchase Agreement” or “Storage Capacity Agreement”	shall mean this Battery Energy Storage Purchase Agreement including its recitals and Schedules, amended or modified from time to time in accordance with the terms hereof;

"SCA" or "BESPA"	
"Appropriate Commission"	Unless otherwise stated, Appropriate Commission shall mean Odisha Electricity Regulatory Commission (OERC);
"Annual Availability"	For a particular Contract Year, "Annual Availability" shall be the average availability of the Contracted BESS capacity during that particular Contract Year, calculated as per this agreement ;
"Battery Energy Storage Project" or "Project" or "BESS Project" or "Battery Energy Storage Systems" or "BESS"	<p>shall mean the system(s)/projects of[Insert capacity] MW/_____ MWh, located at [Insert name of the place] in [Insert name of the District and State] having a separate control system, metering and single point of injection into the grid at Delivery/Interconnection/Metering point at STU substation and utilizing methods and technologies such as electrochemical batteries (Lead Acid, Li-ion, solid state batteries, flow batteries etc.), providing a facility that can store energy and deliver the stored energy in the form of electricity, including ancillary facilities (grid support, for example).</p> <p>It also includes all units and auxiliaries, Battery Energy Management System including associated applications/ software; bay/s for transmission system in the switchyard, dedicated transmission line up to the Delivery Point and all the other assets, buildings/structures, equipment, plant and machinery, facilities and related assets required for the efficient and economic operation of the power generation facility; whether completed or at any stage of development and construction or intended to be developed and constructed for the purpose of supply of above mentioned Battery Energy Storage Capacity as per this Agreement;</p>
"Bill Dispute Notice"	shall mean the notice issued by a Party raising a Dispute regarding a Monthly Bill or a Supplementary Bill issued by the other Party;
"Business Day"	shall mean a working day other than Sunday or a notified holiday of GRIDCO, on which GRIDCO's office remain open for businesses at Bhubaneswar, in the state of Odisha.;
"Buying Entity" or "Buying Utility"	shall mean GRIDCO, who has agreed to avail the Battery Energy Storage Capacity for charge and discharge of BESS to meet demand requirement;
"CERC"	shall mean the Central Electricity Regulatory Commission of India, constituted under sub – section (1) of Section 76 of the Electricity Act, 2003, or its successors;
"CTU" or "Central Transmission Utility"	shall mean the Government Company notified by the Central Government under Sub-Section (1) of Section 38 of the Electricity Act, 2003.
"Change in Law"	shall have the meaning ascribed thereto in Article 12 of this Agreement;

“Commissioning”	The Project will be considered as commissioned if all equipment as per rated Project Capacity has been installed, synchronized with Grid demonstrated all required parameters as per procedure in Schedule 5 of this Agreement.
“Commercial Operation Date (COD)”	shall mean the date of next day on which the entire Project Capacity has achieved successful commissioning (as per provisions of this Agreement).
“Competent Court of Law”	shall mean any court or tribunal or any similar judicial or quasi-judicial body in India that has jurisdiction to adjudicate upon issues relating to this Agreement;
“Consents, Clearances and Permits”	shall mean all authorizations, licenses, approvals, registrations, permits, waivers, privileges, acknowledgements, agreements, or concessions required to be obtained from or provided by any concerned authority for the purpose of setting up of the Project and providing energy storage facility under this Agreement;
“Consultation Period”	shall mean the period of ninety (90) days or such other longer period as the Parties may agree, commencing from the date of issuance of a BESSD Preliminary Default Notice or GRIDCO Preliminary Default Notice as provided in Article 13 of this Agreement, for consultation between the Parties to mitigate the consequence of the relevant event having regard to all the circumstances;
“Contract Year”	shall mean the period beginning from the Effective Date and ending on the immediately succeeding March 31 and thereafter each period of 12 months beginning on April 1 and ending on March 31 provided that: (i) in the financial year in which the Scheduled Commissioning Date would occur, the Contract Year shall - shall commence from the Scheduled Commissioning Date and end on the immediately succeeding March 31, and thereafter each period of twelve (12) months commencing on April 1 and ending on March 31, and (ii) provided further that the last Contract Year of this Agreement shall end on the last day of the Term of this Agreement
"Contracted Capacity"	shall mean [Insert the Project Capacity] MW/_____MWh, which is the Energy Storage Capacity contracted with GRIDCO for supply by the BESSD to GRIDCO at the Delivery Point from the Project. It is clarified that the Project Capacity shall not be capacity demonstrated under any other tender concluded by any Central or State Agency as on the last date of bid submission of the RfS.

“Controlling Shareholding”	shall mean more than 50% of the voting rights and paid up share capital in the Company/ Consortium.
“Day”	shall mean a day, if not a Business Day, the immediately succeeding Business Day.
“Debt Due”	<p>shall mean the aggregate of the following sums expressed in Indian Rupees outstanding on the Transfer Date:</p> <ol style="list-style-type: none"> 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; All accrued interest, financing fees and charges payable under the Financing Agreements on, or in respect of, the debt referred to in sub-clause (a) above until the Transfer Date but excluding: (i) any interest, fees or charges that had fallen due 2 (two) years 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 Procurer Default, and (iv) any Subordinated Debt which is included in the Financial Package and disbursed by equity investors or their Affiliates for financing the Total Project Cost. <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. 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” or “Interconnection Point” or “Metering Point”	<p>shall mean the point of connection at the 33kV bus-bar of OPTCL sub-station where power is injected into and drawn from the grid by the project(s). Metering shall be done at this interconnection point where the power is injected into or drawn from. For interconnection with grid and metering, the BESSDs shall abide by the relevant OERC Regulations, Odisha Grid Code and CEA (Installation and Operation of Meters) Regulations, 2006 as amended and revised from time to time.</p> <p>Subject to provisions of this Agreement, for the Contracted Capacity, for transmission of power during charging/discharging of the BESS, STU transmission charges and losses as applicable in line with the extant regulations, shall not be borne by the BESSD. However, any charges / losses (if any) as per extant regulations / guidelines which</p>

	are to be borne by the BESSD shall be on account of the BESSD. Moreover, any penalty or cost like deviation settlement mechanism etc. which is not attributable to GRIDCO shall be borne by the BESSD.
"Dispute"	shall mean any dispute or difference of any kind between GRIDCO and the BESSD, in connection with or arising out of this Agreement including but not limited to any issue on the interpretation and scope of the terms of this Agreement as provided in Article 16 of this Agreement;
"Due Date"	shall mean the forty-fifth (45 th) day after a Monthly Bill (including all the relevant documents) or a Supplementary Bill is received in hard copy/through e-Mail and duly acknowledged by the GRIDCO or, if such day is not a Business Day, the immediately succeeding Business Day, by which date such Monthly Bill or a Supplementary Bill is payable by the GRIDCO.
"Effective Date"	shall mean the date of signing of BESPA;
"Electricity Laws"	shall mean the Electricity Act, 2003 and the rules and regulations made there under from time to time along with amendments thereto and replacements thereof and any other Law pertaining to electricity including regulations framed by the Appropriate Commission;
"Energy Accounts"	shall mean the regional energy accounts/state energy accounts as specified in the Grid Code issued by the appropriate agency for each Month (as per their prescribed methodology), including the revisions and amendments thereof or where such regional energy accounts/state energy accounts are not issued, Joint Meter Reading (JMR) will be considered; GRIDCO reserves the right to choose from any of the above, i.e. JMR/SEA/REA;
"Event of Default"	shall mean the events as defined in Article 13 of this Agreement;
"Expiry Date"	Shall mean the date occurring as on fifteen (15) years from the Scheduled Commissioning Date (SCD)/extended SCD (if applicable), subject to the condition that the storage capacity shall be made available to GRIDCO for a period up to 15 years from the Scheduled Commissioning Date (SCD)/extended SCD (if applicable);
"Financial Closure"	shall mean compliance with the requirements under Article 3.1 of this Agreement;
"Financing Agreements"	shall mean the agreements pursuant to which the BESSD has sought financing for the Project including the loan agreements, security documents, notes, indentures, security agreements, letters of credit and other documents, as may be amended, modified, or replaced from time to time, but without in anyway increasing the liabilities of GRIDCO;

"Force Majeure" or "Force Majeure Events"	shall have the meaning ascribed thereto in Article 11 of this Agreement;
"Guidelines" or "Scheme"	shall mean the Guidelines for "Procurement and Utilization of Battery Energy Storage Systems as part of Generation, Transmission and Distribution assets, along with Ancillary Services" issued by the Ministry of Power vide Gazette Resolution dated 10 th March 2022, including subsequent amendments and clarifications, if any, and "Guidelines Viability Gap Funding (VGF) Scheme for development of Battery Energy Storage Systems supported through Power System Development Fund (PSDF)" issued by the Ministry of Power dated 09.06.2025 including its subsequent amendments and clarifications thereof, if any, issued until the last date of bid submission of the referred RfS;
"Grid Code" / "IEGC" or "State Grid Code"	shall mean the Grid Code specified by the CERC under Clause (h) of Sub-section (1) of Section 79 of the Electricity Act, as amended from time to time, and/or the State Grid Code as specified by the concerned State Commission, referred under Clause (h) of Sub- section (1) of Section 86 of the Electricity Act 2003, as applicable;
"GRIDCO"	shall mean GRIDCO Limited;
ISTS	shall mean the Inter-State Transmission System;
"Indian Governmental Instrumentality"	shall mean the Government of India, Governments of state(s)..... [Insert the name(s) of the state(s) in India, where the Power Project, GRIDCO and BESSD are located] and any ministry, department, board, authority, agency, corporation, commission under the direct or indirect control of Government of India or the above state Government(s) or both, any political sub-division of any of them; including any court or Appropriate Commission(s) or tribunal or judicial or quasi-judicial body in India;
"Insurances"	shall mean the insurance cover to be obtained and maintained by the BESSD in accordance with Article 8 of this Agreement;
"Interconnection Facilities"	shall mean the facilities on BESSD's side of the Delivery Point for scheduling, transmitting and metering the electrical output in accordance with this Agreement and which shall include, without limitation, all other transmission lines and associated equipment, transformers, relay and switching equipment and protective devices, safety equipment and RTU, Data Transfer and Acquisition facilities for transmitting data subject to Article 7, the Metering System required for supply of power as per the terms of this Agreement;
"Invoice" or "Bill"	shall mean either a Monthly Bill / Supplementary Bill or a Monthly Invoice/ Supplementary Invoice raised by any of the Parties;
"Insurance Surety Bond" or "Surety"	shall mean the irrevocable surety bond from and Insurer as per the guidelines issued by the Insurance Regulatory and Development

Bond”	Authority of India (IRDAI), as an alternative to submission of Performance Bank Guarantee by the BESSD to GRIDCO, issued in the form attached hereto as Schedule 3;
“Joint Control”	shall mean a situation where none of the promoter shareholders has more than 50% shareholding in the paid-up share capital and voting rights in the BESSD, and the control is exercised jointly;
“Late Payment Surcharge”	shall have the meaning ascribed thereto in Article 10.3.3 of this Agreement;
"Law"	shall mean in relation to this Agreement, all laws including Electricity Laws in force in India and any statute, ordinance, regulation, notification or code, rule, or any interpretation of any of them by an Indian Governmental Instrumentality and having force of law and shall further include without limitation all applicable rules, regulations, orders, notifications by an Indian Governmental Instrumentality pursuant to or under any of them and shall include without limitation all rules, regulations, decisions and orders of the Appropriate Commissions;
“Letter of Credit” or “L/C”	shall have the meaning ascribed thereto in Article 10.4 of this Agreement;
“MNRE”	shall mean the Ministry of New and Renewable Energy, Government of India;
“MoP”	shall mean the Ministry of Power, Government of India;
"Month"	shall mean a period of thirty (30) days from (and excluding) the date of the event, where applicable, else a calendar month;
“OPTCL”	shall mean Odisha Power Transmission Corporation Limited
"Party" and "Parties"	shall have the meaning ascribed thereto in the recital to this Agreement;
“Payment Security Mechanism”	shall have the meaning ascribed thereto in Article 10.4 of this Agreement;
“Performance Bank Guarantee” or “PBG”	shall mean the irrevocable unconditional bank guarantee, submitted by the BESSD to GRIDCO in the form attached hereto as Schedule 1;
“Preliminary Default Notice”	shall have the meaning ascribed thereto in Article 13 of this Agreement;
“Project Capacity”	Shall mean [Insert the capacity] ___ MW/___ MWh [as per LoA] of BESS, which [Insert name of BESSD] is required to Build Own Operate and supply such Battery Energy Storage Capacity as per provisions of this Agreement read harmoniously with RfS Documents and LoA.

"Prudent Utility Practices"	shall mean the practices, methods and standards that are generally accepted internationally from time to time by electric utilities for the purpose of ensuring the safe, efficient and economic design, construction, commissioning, operation and maintenance of Energy Storage System equipment and which practices, methods and standards shall be adjusted as necessary, to take account of: a) operation and maintenance guidelines recommended by the manufacturers of the plant and equipment to be installed / used for the Project Battery Energy Storage Project; b) the requirements of Indian Law; and the physical conditions at the site of the Project; c) Installation, Operation, Maintenance and Safety Guidelines / Rules / Regulations for BESS/ Projects / Power Projects issued by Central Government Instrumentality;
"RBI"	shall mean the Reserve Bank of India;
"Rebate"	shall have the same meaning as ascribed thereto in Article 10.3.4 of this Agreement;
"RLDC"	shall mean the relevant Regional Load Dispatch Centre established under Sub-section (1) of Section 27 of the Electricity Act, 2003;
"RPC"	shall mean the relevant Regional Power Committee established by the Government of India for a specific region in accordance with the Electricity Act, 2003 for facilitating integrated operation of the power system in that region;
"Rupees", "Rs.", "₹"	shall mean Indian rupees, the lawful currency of India;
"Scheduled Commissioning Date" or "SCD" of the Project	shall mean [Insert Date];
"SERC"	shall mean the Odisha Electricity Regulatory Commission;
"SLDC"	shall mean Odisha State Load Dispatch Center;
"SLDC Charges"	shall mean the charges levied by the SLDC;
"SECI"	shall mean Solar Energy Corporation of India Limited;
"State Transmission Utility" or "STU"	shall mean the Odisha Power Transmission Corporation Limited;
"Tariff" or "Applicable Tariff"	Shall have the same meaning as provided for in Article 9 of this Agreement;

"Tariff Payment"	shall mean the payments to be made under Monthly Bills as referred to in Article 10 and the relevant Supplementary Bills;
"Termination Notice"	shall mean the notice given by either Parties for termination of this Agreement in accordance with Article 13 of this Agreement;
"Term of Agreement"	shall have the meaning ascribed thereto in Article 2 of this Agreement;
"Viability Gap Funding (VGF)"	Viability Gap Funding is financial support under PSDF scheme notified by Ministry of Power, Government of India on 09.05.2025. The eligible amount of ₹ 18 Lakh per MWh (₹ Eighteen lakh per MWh) to be provided under the scheme notified by MoP. The VGF shall be a non-recurring expenditure and shall be fully funded from Power System Development Fund (PSDF).

1.2 Interpretation

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

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

been, or may from time to time be, amended, varied, novated, replaced or supplemented;

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

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

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

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

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

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

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

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

1. Battery Energy Storage Purchase Agreement
2. RfS Document & Letter of Award
3. Right to Use Agreement

ARTICLE 2: TERM OF AGREEMENT

2.1 *Effective Date*

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

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

2.1.3 Notwithstanding the Effective Date, the condition precedent for the enforcement of the obligations of either party against the other under this Agreement shall be that, within 120 days after the Effective Date of the BESPA, GRIDCO shall obtain adoption of tariff from OERC, on the terms and conditions contained in this Agreement. The Parties agree that in the event, the order of adoption of tariff as mentioned above is not issued by the OERC within the time specified above, the provisions of Article 2.1.4 shall apply.

2.1.4 In case the order from the OERC is issued within the timeline as per Article 2.1.3, no extension for Financial Closure or Scheduled Commissioning Date shall be given. However, if the requisite OERC order is issued after the timeline as per Article 2.1.3, this shall entail a corresponding extension in Scheduled Financial Closure and the Scheduled Commissioning Date for equal number of days for which the OERC order has been delayed beyond such period as specified in Article 2.1.3.

2.2 *Term of Agreement*

2.2.1 Subject to Article 2.3 and 2.4 of this Agreement, this Agreement shall be valid for a period of Fifteen (15) years (DD/MM/YYYY) from the Effective Date until and unless terminated. This Agreement may be extended for a further period at least one hundred eighty (180) days prior to the Expiry Date, on mutually agreed terms and conditions.

2.2.2 The BESSD is free to operate their plants beyond the Expiry Date, only with the explicit written sanction from GRIDCO, if other conditions like land lease /
(Insert Project ID)

Right to Use of Land (as applicable), permits, approvals and clearances etc. allow. In such case unless otherwise agreed by GRIDCO, GRIDCO shall not be obligated to procure power beyond the Expiry Date. If the BESSD and GRIDCO mutually agrees for extension of the BESPA, the same shall be subject to approval of OERC as per the mutually agreed terms and conditions between GRIDCO and BESSD, at the monthly capacity charge @50% of the Tariff as per Clause 9.1 of the BESPA..

2.3 ***Early Termination***

2.3.1 This Agreement shall terminate before the Expiry Date if either GRIDCO or BESSD terminates the Agreement, pursuant to Article 13 of this Agreement.

2.4 ***Survival***

2.4.1 The expiry or termination of this Agreement shall not affect any accrued rights, obligations and liabilities of the Parties under this Agreement, including the right to receive penalty as per the terms of this Agreement, nor shall it affect the survival of any continuing obligations for which this Agreement provides, either expressly or by necessary implication, which are to survive after the Expiry Date or termination including those under Article 11 (Force Majeure), Article 13 (Events of Default and Termination), Article 14 (Liability and Indemnification), Article 16 (Governing Law and Dispute Resolution), Article 17 (Miscellaneous Provisions), and other Articles and Schedules of this Agreement which expressly or by their nature survive the Term or termination of this Agreement shall continue and shall survive in perpetuity in case of any expiry or earlier termination of this Agreement.

ARTICLE 3: CONDITIONS SUBSEQUENT

3.1 Satisfaction of conditions subsequent by the BESSD

The BESSD agrees and undertakes to duly perform and complete all of the following activities at its own cost and risk unless such completion is affected by any Force Majeure event, or for the activities specifically waived off in writing by GRIDCO:

- (i) BESSD shall sign Land Utilization Agreement with OPTCL immediately, but not later than 60 days after Effective Date of BESPA.
- (ii) BESSD's own cost and risk by.....[Enter the date as on Six (6) Months after the Effective Date] BESSD shall make Project financing arrangements (i.e. *arrangement of necessary funds by the Battery Energy Storage System Developer towards 100 % project cost either by way of commitment of funds by the Company from its internal resources (by a resolution passed by the Board of Directors) and/or tie up of funds through a bank/financial institution by way of sanction of a loan or firm commitment letter agreeing to finance*) for Project(s) and shall provide necessary certificates to GRIDCO in this regard;
- (iii) Detailed Project Report (DPR) of the Project, detailing out project configuration and proposed commissioning schedule of the Project.
 - a) The BESSD shall also submit to GRIDCO the relevant documents as stated above, complying with the Conditions Subsequent, within Six (6) months from the Effective Date.
 - b) The BESSD will have to submit the required documents to GRIDCO at least 14 days prior to the scheduled Financial Closure date. In case of delay in submission of documents mentioned above, GRIDCO shall not be liable for delay in verification of documents and subsequent delay in Financial Closure.

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

- 3.2.1 In case of a failure to submit the documents as above, GRIDCO shall encash the Performance Bank Guarantee/ Insurance Surety Bond submitted by the BESSD, terminate this Agreement and remove the Project from the list of the selected Projects by giving a notice to the BESSD in writing of at least seven (7) days, unless the delay (subject to the condition that BESSD has made/ is making all

possible efforts) is on account of delay in allotment of Land by the OPTCL not owing to any action or inaction on the part of the BESSD or caused due to a Force Majeure. Unless extended as per provisions of Article 3.2.1 (i) of this Agreement in writing, the termination of the Agreement shall take effect upon the expiry of the 7th day of the above notice.

In case delay in signing of Land Utilization Agreement is due to reasons not attributable to BESSD, then the deadline to fulfil Conditions Subsequent will be extended commensurate with the delay in signing of Land Utilization Agreement beyond the deadline as per Article 3.1(i) above.

- 3.2.1 (i) An extension, without any impact on the Scheduled Commissioning Date, can however be considered, on the sole request of BESSD, on payment of Rs. 1000/- plus applicable GST per day per MW to GRIDCO. Such extension charges are required to be paid to GRIDCO in advance, for the period of extension required. In case of any delay in depositing this extension charge, BESSD shall pay an interest on this extension charge for the days lapsed beyond due date of Financial Closure @ SBI-MCLR (1Year). In case such delay in making payment of the extension charges to GRIDCO is more than 7 days, the termination of the Agreement shall take effect upon the expiry of such 7th day. This amount will go into the Payment Security Mechanism. In case of the BESSD meeting the requirements of conditions subsequent and financial closure before the last date of such proposed delay period, the remaining amount deposited by the BESSD shall be returned by GRIDCO without interest. This extension will not have any impact on the Scheduled Commissioning Date. Any extension charges paid so by the BESSD, shall be returned to the BESSD without any interest on achievement of successful commissioning within the Scheduled Commissioning Date, on pro-rata basis, based on the project capacity commissioned as on Scheduled Commissioned Date. However, in case the BESSD fails to commission the Contracted Capacity by Scheduled Commissioning Date, the extension charges deposited by the BESSD shall not be refunded by GRIDCO. This shall be without prejudice to the further rights of GRIDCO to claim liquidated damages for the delay in achieving the Commissioning of the project.
- 3.2.2 For the avoidance of doubt, it is clarified that this Article shall survive the termination of this Agreement.

- 3.2.3 In case of inability of the BESSD to fulfil the conditions specified in Article 3.1 due to any Force Majeure event, the time period for fulfilment of the Conditions Subsequent and Financial Closure as mentioned in Article 3.1, shall be extended for the period of such Force Majeure event. Further, any delay in adoption of tariff by the Appropriate Commission, beyond 120 (one hundred twenty days) days after the Effective Date of this Agreement, shall entail a corresponding extension in the deadline as stipulated in Article 3.1.
- 3.2.4 Provided that due to the provisions of this Article 3.2.1, any increase in the time period for completion of conditions subsequent and financial closure mentioned under Article 3.1, shall also lead to an equal extension in the Scheduled Commissioning Date.

3.3 Performance Bank Guarantee/ Insurance Surety Bond

- 3.3.1 The Performance Bank Guarantee (PBG)/ Insurance Surety Bond having validity from the date of submission of PBG until 9 months after the SCD submitted for a value of **22.5 Lakh/MW** (being a genuine pre-estimate as agreed by the Parties) to be furnished under this Agreement shall be for guaranteeing the commencement of the supply (injection / drawl) of power / energy up to the Project Capacity within the time specified in this Agreement as per Schedule 1/ Schedule 2.
- 3.3.2 The failure on the part of the BESSD to furnish and maintain the Performance Bank Guarantee shall be a material breach of the term of this Agreement on the part of the BESSD.
- 3.3.3 If the BESSD fails to commence supply of power from the Scheduled Commissioning Date specified in this Agreement or any further extension thereof granted by GRIDCO, subject to conditions mentioned in Article 4.5, GRIDCO shall encash the Performance Bank Guarantee equivalent to the amount calculated as per liquidated damages applicable under Article 4.6 as on the date of encashment without prejudice to the other rights of GRIDCO.
- 3.3.4 BESSD acknowledges and accepts that the amount of the Performance Bank Guarantee and the methodology specified herein above for calculation of the compensation payable for non-fulfillment of conditions subsequent within the stipulated time as well as non-commencement of supply within the stipulated time is a genuine and accurate pre-estimation of the actual loss that will be

suffered by GRIDCO. BESSD further acknowledges and accepts that a breach of any of the obligations contained herein result in injuries and that the amount of the liquidated damages or the method of calculating the liquidated damages specified in this document is a genuine and reasonable pre-estimate of the damages that may be suffered by GRIDCO in each case specified under this Agreement.

3.4 Return of Performance Bank Guarantee/ Insurance Surety Bond

- 3.4.1 Subject to Article 3.3, GRIDCO shall return / release the Performance Bank Guarantee within 45 days after the successful Commissioning of the Project after taking into account any liquidated damages / penalties due to delays in commissioning as per provisions stipulated in this Agreement.
- 3.4.2 The return / release of the Performance Bank Guarantee shall be without prejudice to other rights of GRIDCO under this Agreement.

ARTICLE 4: CONSTRUCTION & DEVELOPMENT OF THE PROJECT

4.1 *BESSD's Obligations*

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

- a) The BESSD shall be offered land on Right to Use / Lease / Sub-lease / licensing arrangement (as applicable) within 60 days from the Effective Date of BESPA. BESSD shall promptly comply with all the statutory/ non-statutory, legal requirements including but not limited to signing of any agreement, payment of considerations etc. as per the offer made for the land.

The BESSD shall submit duly executed documents/Agreements to establish possession/right to use the required land area in the name of the BESSD for a period not less than the complete term of the BESPA, on or before the SCD failing which Commissioning of the Project will not be allowed;

- b) The BESSD shall be solely responsible and make arrangements for associated infrastructure for development of the Project and for Connectivity with the STU till Delivery Point for confirming the evacuation of power by the Scheduled Commissioning date and all clearances related thereto. However, it is clarified that the Project shall be interconnected to the _____ substation in Odisha. Connectivity has been assured to be provided to the BESSD, and necessary applications in this regard, will be required to be made by the BESSD. All the requisite costs associated including fees with obtaining connectivity shall be borne by the BESSD.

- c) Obtaining all Consents, Clearances and Permits as required and maintaining all Consents, Clearances and Permits in full force and effect during the Term of this Agreement. Except for Land and Connectivity of the Project, GRIDCO shall have no obligation to recommend to any department/agency or the Govt. for the grant/permission for the Project. The BESSD shall, on his own, obtain permissions/ sanctions from Government authorities, if any required for establishing and operating (including for Charging and Discharging from BESS) the project. Any steps that may be taken by GRIDCO in regard to grant of such consents

and permits or any other approval to be taken by the BESSD shall only be a voluntary endeavour with no intention of being bound by any legal or binding obligation.

- d) designing, constructing, erecting, commissioning, completing and testing the Project in accordance with the applicable Law, the Grid Code, the terms and conditions of this Agreement and Prudent Utility Practices.
- e) the commencement of supply of power / energy up to the Contracted Capacity to GRIDCO no later than the Scheduled Commissioning Date and continuance of the supply of power throughout the term of the Agreement;
- f) connecting the Project switchyard with the Interconnection Facilities at the Delivery Point; The BESSD shall make adequate arrangements to connect the Project switchyard with the Interconnection Facilities at Interconnection / Metering / Delivery Point.
- g) owning the Project throughout the Term of Agreement free and clear of encumbrances, except those expressly permitted under Article 15.
- h) maintaining its shareholding pattern as per provisions of the RfS Document.
- i) fulfilling all other obligations required to be undertaken by the BESSD under this Agreement for development of Project in Build, Own, Operate basis and supply of BESS Capacity during Term of this Agreement and as per provisions of this Agreement, RfS and LOA.
- j) The BESSD shall be responsible to for directly coordinating and dealing with the GRIDCO, OPTCL, Load Dispatch Centres, Regional Power Committees, and other authorities in all respects in regard to declaration of availability, scheduling and dispatch of Stored Energy Capacity and due compliance with deviation and settlement mechanism and the applicable Grid code/State/Central Regulations.
- k) The BESSD shall fulfil the technical requirements according to criteria mentioned under Annexure A–Technical requirement for Project under the Guidelines and RfS.
- l) Further, the Project being implemented under this Agreement shall fulfil the criteria as per Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007, or equivalent SERC/ CEIG regulations, and subsequent amendments and clarifications thereof,

- m) As part of scheduling of power / energy from / to the Project for discharging / charging, the BESSD will be required to punch-in their respective schedules and subsequent revisions, by themselves, to the SLDC, with a copy to GRIDCO, as per the Regulations in force. GRIDCO/SLDC may facilitate in identification of any discrepancy and assist the BESSD for its early rectification without any liability on GRIDCO/SLDC. The BESSD shall be solely responsible for discrepancy identification and its rectification to avoid any rejection/less payment of invoices.
- n) In case of bilateral tie-up with DISCOM, the BESSD shall apply for drawl NOC(s) from the respective STU(s) of the State /SLDC as per the power mapping provided by GRIDCO.
- o) BESSD will have to comply with the Charging and Discharging Schedule as intimated by GRIDCO. Frequent deviations from schedule by BESSD on account of commercial gain shall be considered under the material breach of this agreement.
- p) After completion of BESPA tenure of 15 years or early termination or any other reason specified in this agreement, BESSD shall handover clear physical possession of the land provided by OPTCL on lease basis. All the infrastructure developed by BESSD needs to be cleared at the time of handing over the land to GRIDCO and that expenses shall be borne by BESSD.
- q) The BESSD is required to design the Battery Energy Storage System (BESS) under the BESPA, ensuring that the BESS is available for minimum 1 operational cycle per day, i.e. 1 complete charge-discharge cycles per day. GRIDCO, at its discretion, may utilise the BESS up to 2 Operational cycles per day subject to the maximum of 420 Operational Cycles in a Contract Year.
- r) For the Project being implemented under this Agreement, the BESSD shall submit a detailed completion Schedule for the Project prior to the signing of BESPA. Broad details to be captured in the Schedule are the Land Lease Agreement, grid connectivity; order, supply and erection status of various Project components; financial arrangement/ tie up etc. The BESSD shall also submit the progress report to GRIDCO in a form acceptable to GRIDCO and shall contain percentage completion achieved compared with the planned percentage completion for each activity, and any such other

information as required by GRIDCO. The BESSD shall be required to submit the progress status of Project to GRIDCO as and when requested by GRIDCO, strictly within the timelines provided by GRIDCO. Further, on 5th day of every calendar month, the BESSD shall be required to submit the Project progress status as per Annexure-E of the RfS or the format as desired by Buying Entity. In case of failure to comply with the same, GRIDCO at its discretion, may or may not consider the SCD extension request of the BESSD, if any.

- s) BESS systems shall comply with applicable regulations, standards and codes issued by the CEA regarding safety.
- t) The Application Software of the Energy Management System (EMS) of the BESS shall be developed indigenously within India.
- u) The BESSD shall ensure that the Battery Energy Storage System installed is of requisite quality and complies with best industry practices. The use of refurbished or second-hand battery cells in the project is strictly prohibited. An undertaking to this effect shall be obtained by GRIDCO from the BESSD in a format to be prescribed by GRIDCO.
- v) Cyber security and communication protocols shall adhere to the guidelines of the Ministry of Electronics and Information Technology (MeitY), the CEA, and MoP.
- w) Environmental management and end-of-life disposal of batteries shall be in accordance with the guidelines/ regulations of the Government of India/ Government of Odisha. The responsibility of disposal shall lie with the owner of the BESS.

4.2 *Information regarding Interconnection Facilities*

- 4.2.1 The BESSD 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 facilities on the BESSD's side of the Delivery Point to enable injection / drawl of electricity at the Delivery Point. The transmission of power / energy to / from up to the point of interconnection where the metering is done for energy accounting shall be the responsibility of the BESSD at its own cost.
- 4.2.2 Penalties, fines and charges imposed by the CTU/ STU/ GRIDCO under any statute or regulation in relation to delay in commissioning of Project shall be payable by the BESSD to the extent the delay is attributable to the BESSD and

there shall be no recourse to GRIDCO in this regard. In case there is any liability on GRIDCO under the extant Regulations for any delay in commissioning by BESSD, GRIDCO shall be reimbursed for the same from BESSD and GRIDCO shall be entitled to encash the Bank Guarantees/POI/Surety Bond available with it or adjust against the payments due to BESSD for recovery of such amounts.

4.2.3 The responsibility of getting connectivity with the transmission system up to the Interconnection Point, will lie with the BESSD. The transmission of power up to the point of interconnection where the metering is done for energy accounting shall be the responsibility of the BESSD at its 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 BESSD. All costs, charges and losses up to and including at the Interconnection Point associated with this arrangement will also be borne by the BESSD.

4.2.4 The BESSD shall be responsible for obtaining Connectivity and executing connectivity agreement as per provision of latest Grid connectivity and Intra-State Open Access Regulations issued by OERC, for evacuation of the Contracted Capacity and maintaining it throughout the term of the Agreement. It is further clarified that the Entities (BESSD and GRIDCO) as indicated in the Detailed Procedure issued subsequently under the OERC's relevant Grid Connectivity and Intra-State Open Access Regulations (as amended from time to time), will be responsible for their respective obligation as notified in the Detailed Procedure irrespective of the provisions of the RfS and BESPA.

4.2.5 The arrangement of connectivity shall be made by the BESSD through a transmission line, if applicable. 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 BESSD.

4.2.6 Treatment of InSTS Charges (if any) shall be as per the extent regulation / orders / guidelines of Government of Odisha.

4.2.7.1 BESSD needs to carry out inter-device interaction studies for BESS with RE generation (Wind/Solar) and STATCOMs in nearby substations.

4.2.7.2 Following studies may be conducted (not limited to below) by BESS Developer(s) in this regard:

- i. Harmonic studies considering network and BESS system along with flicker studies

- ii. Transient and dynamic studies
- iii. Small signal stability studies
- iv. Sub-Synchronous Oscillations/ Sub-Synchronous Resonance / Sub-Synchronous Torsional Interaction studies
- v. Sub-synchronous control interactions studies between different converter based equipment.

4.2.7.3 In addition, BESS system shall need comply to requirements/performance parameters stipulated in Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007 and its amendments or equivalent OERC Regulations.

4.2.7.4 Communication Equipment Requirement at BESS end:

BESSD will provide UGFO/Approach cable (having minimum 12 Fibers) from BESS end to the __ kV __ Substation, Odisha, control room. BESSD will provide FOTE (STM-16) terminal equipment, FODP and PMU at the BESS end.

4.2.7.5. Communication Equipment Requirement at STU end:

At STU station, BESSD will provide FOTE (STM-16), FODP and approach cable at STU station at its bay kiosk and shall also provide suitable optical interface at __ kV Substation, __ Odisha FOTE for local patching.

BESSD will provide communication equipments as per Regulations on Communication System for transmission of electricity and other Regulations/Procedures (as amended from time to time) issued by Appropriate Commissions and Central Electricity Authority (CEA)/ CEIG.

4.3 *Purchase and sale of Contracted Capacity*

4.3.1 Subject to the terms and conditions of this Agreement, the BESSD undertakes to sell to GRIDCO and GRIDCO undertakes to pay Applicable Tariff as per this Agreement for the Battery Energy Storage Capacity upto the Contracted Capacity at the Delivery Point.

4.4 *Right to Project/ Contracted Capacity*

4.4.1 GRIDCO, in any Contract Year except for the Contract Year ending on 31st March immediately after COD of the Project, shall not be obligated to off-take any capacity beyond / over and above Contracted Capacity.

The BESSD shall make the BESS available for minimum 1 operational cycle per day, i.e. 1 complete charge-discharge cycle per day, and maximum 2 operational cycles per day, subject to 420 Operational Cycles in a Contract Year. GRIDCO/ SLDC, at its discretion, may utilize the BESS for 2 operational cycles per day subject to the maximum of 420 operational cycles in a Contract Year. For the purpose of this Agreement, Cycle shall mean charging of the BESS up to the Contracted capacity followed by discharge of such stored energy including any intervening resting period as specified in the RfS Document. The BESSD shall not use the Contracted Capacity for any purpose other than that specified in this Agreement.

For the Contracted Capacity of 125 MW, the BESPA shall entitle the off-taker to schedule discharge up to 500 MWh of energy from the BESS in each cycle, subject to the following:

- i. The SLDC in consultation with GRIDCO will schedule charging of the BESS with equal amount of energy plus energy expected to be lost as conversion losses (determined from the guaranteed Round-Trip Efficiency (RtE) of the system)

Illustration: For a Contracted Capacity of 125 MW/500 MWh, assuming an RtE of 85%, Buying entity shall supply charging power to the tune of 588.24 MWh, to expect a discharge of 500 MWh as per the desired schedule. In this case, the BESSD shall also maintain the BESS capacity to the tune of 588.24 MWh to absorb the supplied charging power.

- ii. Energy scheduled for discharge in a given cycle during a year shall be more than or equal to the Min. Dispatchable Energy Capacity at the End of Year as specified under Article 4.4.2.(c) and shall be limited to the quantum specified for the immediately previous year, as specified in Article 4.4.2.(c).

For example, during the 3rd Year after COD, the energy scheduled for discharge from 125 MW/500 MWh capacity shall be more than or equal to $125 \times 0.925 \times 4 = 462.5$ MWh and less than or equal to $125 \times 0.95 \times 4 = 475$ MWh.

- iii. Contracted Capacity shall be the Project Capacity at the Delivery Point. GRIDCO shall provide the charging energy factoring the RtE, as per specified RtE in BESPA and RfS.

4.4.2 Subsequent to commissioning of the Project, for any Contract Year, the BESSD shall be required to maintain and demonstrate the following performance parameters:

- a) **Minimum Annual Average Availability of 95%:** During any Contract Year for the Contracted Capacity, BESSD shall be required to maintain minimum annual average availability of 95%.

Annual System Availability = Mean of the System availabilities of all time-blocks during the year in which the off-taker has scheduled power for charging/discharging the BESS.

where,

System Availability in a time-block=

$$\frac{\text{Actual Injection/Drawl } MU_i(A)}{\text{Scheduled Injection/Drawl } MU_i(B)}$$

where

- a) i refers to the i^{th} time-block in the year where Scheduled Injection/Drawl $MU_i \neq 0$.
- b) Actual Injection/Drawl MU_i is the Energy Scheduled for Charging/Discharging in the i^{th} time-block, in MUs
- c) Scheduled Injection/Drawl MU_i is the Energy Scheduled for Charging/Discharging in the i^{th} time-block, in MUs
- d) A and B shall be as per the DSM/UI Reports published by the Odisha SLDC.

Annual Average Availability shall be calculated as per the above methodology, which has also been provided in the RfS.

In case of shortfall in meeting the above criteria, the BESSD shall be levied liquidated damages for such shortfall and shall duly pay such damages to GRIDCO. Amount of such liquidated damages shall be twice the Capacity Charges (Capacity Charges shall mean Applicable Tariff as defined under Article 9 of the BESPAs) for the capacity not made available. The Liquidated damages for shortfall of monthly Average Availability shall be applicable at the end of each month and shall be deducted from the invoices raised by the BESSD.

The Minimum Annual Average Availability as specified above, shall however be relaxable by GRIDCO to the extent of grid non-availability for evacuation which is beyond the control of the BESSD (as certified by the SLDC/RLDC) and / or upon occurrence of Force Majeure event as identified in BESPAs (and

occurrence of such Force Majeure event(s) has been mutually agreed) and affecting availability and supply of Contracted Capacity.

- b) **Round Trip Efficiency:** The BESSD shall maintain AC to AC roundtrip efficiency (RtE) of system on a monthly basis. The BESSD shall guarantee a **minimum AC to AC roundtrip efficiency (RtE) of 85%** for the system on monthly basis.

The BESSD shall be liable for liquidated damages, if any, as per following criteria:

- (i) For $RtE < 70\%$, there shall be a liquidated damage levied @ 1.5 times the APPC charge of previous financial year of the GRIDCO of excess conversion losses considering system $RtE = 85\%$, and tariff payment for the corresponding month shall not be made to the BESSD.
- (ii) For $70\% \leq RtE < 80\%$ there shall be a liquidated damage levied @ 1.5 times the APPC tariff, levied upon excess conversion losses considering system $RtE = 85\%$
- (iii) For $80\% \leq RtE < 85\%$ there shall be a liquidated damage levied @ APPC tariff, levied upon excess conversion losses considering system $RtE = 85\%$
- (iv) For $RtE > 85\%$, there shall be incentive @Rs. 0.50 per unit of excess discharge of energy considering system $RtE = 85\%$

APPC tariff shall be as approved in the ARR and Bulk Supply Price (BSP) for the corresponding financial year, as approved by OERC.

System Roundtrip Efficiency =

$$\frac{\text{Sum Total of Actual Injection/Discharging } MUS_j \text{ in a month (C)}}{\text{Sum Total of Actual Drawal/Charging } MUS_j \text{ in a month (D)}}$$

Where,

j refers to the jth month in a year;

$D \neq 0$;

$D \leq \text{No. of Cycles in jth Month} \times \text{“d”}$;

“d” (charging energy required for each cycle in the jth month) = $E_{\text{bess}} \times (MD_{n-1} - (MD_{n-1} - MD_n) \times j/12) / RtE_g$;

The value of d shall be calculated on month ahead basis by SLDC to determine the charging power for the concerned month.

Ebess refers to Energy Rating specified in Clause 8.1.b. above;

MDn-1 refers to minimum guaranteed dispatchable energy at the end of the previous year (as a % of Capacity at the COD specified in Clause 8.1.c.iv. below);

MDn refers to minimum guaranteed dispatchable energy at the end of the current year;

RtEg refers to the guaranteed Round-Trip Efficiency under the BESPA;

C and D shall be as per the respective DSM/UI Reports published by the Odisha SLDC.

Note:

- The Scheduled capacity shall be subject to the System Power Rating specified in Clause 8.1.a. above.
- The BESSD shall take separate, metered connection for the Auxiliary Power load of BESS.

OR

The BESSD can draw auxiliary power from Interconnection Point.

In both the cases, separate meter would be arranged by the BESSD to measure Auxiliary consumption as per the OERC regulation and that would be billed by DISCOM.

- The BESSD shall declare RtE on Day-Ahead basis.

c) Taking into consideration capacity degradation, the minimum dispatchable capacity to be made available by the BESSD at the end of a given year shall be as follows:

Year	Min. Dispatchable Capacity at the end of Year (as a % of Capacity at the Beginning of Life/COD)
1	97.5%
2	95.0%
3	92.5%
4	90.0%
5	87.5%
6	85.0%
7	82.5%
8	80.0%
9	77.5%

10	75.0%
11	72.5%
12	70.0%
13	67.5%
14	65.0%
15	62.5%

- d) Performance criteria to be demonstrated by the Project have been detailed out in Clause 8.1 of the RfS.
- e) The nameplate ratings shall be achievable during discharge for the full range of environmental conditions at the project site when the battery is fully charged. In any case, the BESS shall be capable of being discharged at reduced power levels from that specified above. However, the energy discharged from the battery shall not be required to be greater than the nameplate watt-hour rating specified herein. For example, during the end of the 3rd Year after COD, the energy scheduled for discharge from 125 MW capacity shall be more than or equal to $125 \times 0.925 \times 4 = 462.5$ MWh.
- f) SLDC in consultation with GRIDCO shall, in accordance with Applicable Laws and Regulations thereunder, issue instructions to the BESSD for despatch of electricity to the Grid during such period and in such volume as it may specify in its instructions. The BESSD shall clearly specify the maximum recovery times required to restore the BESS for functional availability between duty cycles. However, in no case, the same shall be more than 1 hour.
- g) Operational Window: Operational Window shall mean the expected hours/duration of system (capacity) availability on each day during the term of the Contract, excluding:
- Maximum BESS recovery time as specified in this document
 - Grid Outages (duly certified to this effect by the Grid Operator)
 - Planned Maintenance Outage duly informed by the BESSD to the SLDC & GRIDCO with at least one month's prior notice, subject to total no. of planned outage period being not more than 34 hours in a two-month period.

BESSD will have to comply with the Charging and Discharging Schedule as intimated by SLDC/GRIDCO. It is clarified that discharge of BESS shall take place subject to availability of real time margin at the STU substation.

4.4.3 Shortfall in meeting Performance Criteria

Following provisions shall be applicable on the Contracted Capacity:

i. Shortfall in demonstrating minimum Availability during charging cycles:

Subsequent to COD of full Project Capacity or the capacity finally accepted by GRIDCO, in case the annual Availability demonstrated by the BESSD is less than the minimum as specified above, such shortfall in performance shall make the BESSD liable to pay the liquidated damages to GRIDCO.

Liquidated damages on account of shortfall in meeting the minimum Availability criteria as per Article 4.4.2 (a) will be computed as follows:

$$\text{Liquidated damages} = (A - B) \times C \times D \times n \times 2$$

where,

A is Guaranteed Annual Availability (%) as per Article 4.4.2 (a) above;

B is Actual Annual System Availability (%), as calculated as per Clause 8.1 of the RfS;

C is Contracted Capacity/ BESS Power Capacity;

D is Tariff/ Capacity Charges in INR/MW/month as discovered through bidding process;

n is the no. of months.

In case of the BESS failing to meet minimum 50% of the stipulated availability applicable for a particular Contract Year as per Article 4.4.2.(c) above, for a cumulative period of 2 years or more during the Term of the BESPA, the shortfall shall be considered as an Event of Default under the BESPA, and failure to rectify this Event will result in termination of the BESPA.

ii. Shortfall in demonstrating minimum Round-trip-Efficiency:

In case the BESSD fails to meet the monthly RtE demonstration as per Article 4.4.2 (b), additional Liquidated Damages for the unavailability of the required minimum RtE shall be applicable for the entire month.

It is clarified that the calculation of Availability as per Article 4.4.2.(a) will not include the planned outage as declared by the BESSD under Article 4.4.2.(g) above. However, in case the BESSD notifies any outage outside the planned

outage hours, while GRIDCO may not actually schedule any power injection/drawl during those outage hours, such hours will be accounted for in calculating the Annual Availability as per Article 4.4.2.(a).

For example, in case the BESSD notifies outage for 10 hours outside the total allocated quota of planned outage amounting to (34 x 6) hours, i.e. 204 hours, the denominator of the formula in Article 4.4.2.(a) above will include the time-blocks corresponding to these 10 hours, and exclude the 204 hours of planned outage.

However, this damage shall not be applicable in events of Force Majeure identified under the BESPA with GRIDCO, affecting the availability of the system.

For avoidance of any doubt, liquidated damages as specified above are mutually exclusive and independent, therefore, in case of levying of liquidated damages against Annual Average Availability and Round-Trip Efficiency, both damages shall be payable by the BESSD.

Illustrations regarding calculation of liquidated damages are provided at Schedule-4 of this Agreement.

4.5 *Extensions of Time*

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

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

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

4.5.2 Any delay beyond 120 days from the Effective Date of BESPA in issuance of Order for the adoption of tariff by Appropriate Commission, shall entail a corresponding extension in Scheduled Financial Closure and the Scheduled Commissioning Date for equal number of days for which the OERC order has been delayed beyond such period of 120 days from the Effective Date of BESPA.

- 4.5.3 In case of extension due to reasons specified in Article 4.5.1(b) and (c), and if such Force Majeure Event continues even after a maximum period of 180 days from the date of the Force Majeure Notice, any of the Parties may choose to terminate the Agreement as per the provisions of Article 11.10. In case neither party terminates the Agreement under this clause, the Agreement shall stand terminated on the expiry of twelve (12) months of the continuation of the Force Majeure event unless the parties mutually agree to extend the Agreement for the further period.
- 4.5.4 If the Parties have not agreed within thirty (30) days after the affected Party's performance has ceased to be affected by the relevant circumstance, on the time period by which the Scheduled Commissioning Date or the Expiry Date should be deferred, either Party may raise the Dispute to be resolved in accordance with Article 16.
- 4.5.5 As a result of such extension on account of Article 4.5.1 or Article 4.5.2, the newly determined Scheduled Commissioning Date and newly determined Expiry Date shall be deemed to be the Scheduled Commissioning Date and the Expiry Date for the purposes of this Agreement.
- 4.5.6 Subsequent to grant of connectivity, in case there is a delay in readiness of the STU substation at the Delivery Point, including readiness of the power evacuation and transmission infrastructure of the STU network until SCD of the Project, or delay in grant/operationalization of Grid Access, and it is established that:
- i. The BESSD has complied with the complete application formalities as per Article 4.2.4 of this Agreement,
 - ii. The BESSD has adhered to the applicable Regulations/Procedures in this regard as notified by the OERC /STU (as applicable), and
 - iii. The delay in grant of connectivity by the STU and/or delay in readiness of the STU substation at the Delivery Point, including readiness of the power evacuation and transmission infrastructure of the STU network, is a factor attributable to the STU/transmission licensee and is beyond the control of the BESSD;

The above shall be treated as delays beyond the control of the BESSD and SCD for such Projects shall be revised as the date as on 30 days subsequent to the readiness of the Delivery Point and power evacuation infrastructure and/or operationalization of the Grid Access. Decision on requisite extension on account

of the above factor shall be taken by jointly by GRIDCO and BESSD. In case of delay in commissioning of Project due to reasons beyond the reasonable control of the BESSD, GRIDCO may extend the SCD after examining the issue on a case-to-case basis.

Further, in case of delay in Project commissioning on account of reasons solely attributable to the BESSD, resulting in any liquidated damages/penalty levied on the GRIDCO under the Regulations and liability arising towards procurement of charging energy, such damages/penalty/ liability shall be passed on to and payable by the BESSD.

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

4.6 *Liquidated Damages not amounting to penalty for delay in Commissioning*

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

- (a) Delay beyond the Scheduled Commissioning Date up to (& including) the date as on 6 months after the Scheduled Commissioning Date, as part of the liquidated damages, the total PBG/ISB amount for the Project shall be encashed on pro-rata basis for the delay in number of days beyond the SCD. As an alternative to the above encashment of PBG/ISB, the BESSD may choose to make a payment of the amount corresponding to the liquidated damages, directly to GRIDCO. The BESSD shall intimate to GRIDCO, its chosen alternative out of the two options, within 10 business days of intimation of the liquidated damages to the BESSD, as calculated by GRIDCO. In case no response is received from the BESSD until the lapse of the above deadline, GRIDCO shall encash the PBG/ISB for the amount as per the liquidated damages. In case the BESSD chooses to make necessary payments in lieu of the liquidated damages, the said payment shall be credited to GRIDCO's account through NEFT payment, no later than 5

business days from the above intimation by the BESSD. In case of non-payment by the BESSD within the above deadline, the PBG will be encashed by GRIDCO on the next business day.

- (b) Delay beyond Six (6) Months from SCD: The BESPAs capacity shall stand reduced/amended to the Project Capacity commissioned, the entire PBG/ISB will be encashed by GRIDCO, and the BESPAs for the Project shall stand terminated for the balance un-commissioned capacity. Accordingly, Contracted Capacity will also stand reduced to Project Capacity commissioned as of six months from the SCD.
- (c) For avoidance of doubt it is clarified that provisions of Article 4.6.1 will be applicable even in cases where no capacity (**i.e. 0 MW**) is commissioned.

4.6.2 The BESSD further acknowledges and accepts that the amount of the liquidated damages as specified above is a fixed, genuine and reasonable pre-estimate of the damages that may be suffered by GRIDCO.

4.7 Acceptance/Performance Test

4.7.1 Prior to synchronization of the Project, the BESSD shall be required to get the Project certified for the requisite test including for safety as may be laid down by Central Electricity Authority/ CEIG or an agency identified by the central/state government to carry out testing and certification for the Battery Energy Storage projects. Further, BESSD shall ensure that all technical, acceptance and performance criteria as specified in RfS Documents and Guidelines are also complied and maintained.

4.8 Third Party Verification

- 4.8.1 The BESSD shall be further required to provide entry to the site of the Project free of all encumbrances at all times during the Term of the Agreement to GRIDCO (or its authorized representatives) and a third Party nominated by any Indian Governmental Instrumentality for inspection and verification of the works being carried out by the BESSD at the site of the Project. The BESSD shall provide full support to GRIDCO 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 BESSD and if it is found that the construction works/operation of the Project is not as per the Prudent Utility Practices, it may seek clarifications from BESSD 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 GRIDCO being in compliance of its obligations & undertakings under this Agreement, the BESSD would have no right to negotiate or enter into any dialogue with any third party for the sale of Contracted Capacity which is the subject matter of this Agreement. It is the specific understanding between the Parties that such bar will apply throughout the entire term of this Agreement.

ARTICLE 5: SYNCHRONISATION, COMMISSIONING AND COMMERCIAL OPERATION

5.1 Synchronization, Commissioning and Commercial Operation

- 5.1.1 The BESSD shall give the concerned RLDC/SLDC, GRIDCO 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 Project to the Grid System.
- 5.1.2 Subject to Article 5.1.1, the Project may be synchronized by the BESSD to the Grid System with permission from GRIDCO/OPTCL and in presence of Authorized representative of GRIDCO/OPTCL 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 / any other equipment for charge and discharge of power from the Project and transmission of data to the concerned authority as per applicable regulation shall be installed by the BESSD at its facility of the Project at its own cost. The BESSD 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 and RLDC/SLDC, in line with the provisions of the Grid Code.
- 5.1.4 The BESSD shall immediately after each synchronization/tripping of system, inform the sub-station of the Grid System to which the Project is electrically connected in accordance with applicable Grid Code under intimation to GRIDCO. In addition, the BESSD at its own risk and cost, will be required to arrange for the charging and discharging of power for carrying to carry out operational/ functional test prior to commercial operation as well as for commissioning of the Project. 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 BESSD shall commission the Project as detailed in “**Schedule 5: Commissioning Procedure**” within eighteen (18) Months from the Effective Date of BESPA. Declaration of COD / UCOD shall only be done subject to the demonstration of the compliances as per Schedule-5.

- 5.1.6 Part commissioning of the Project is not allowed under this Agreement
- 5.1.7 The Parties agree that for the purpose of commencement of the BESS capacity by the BESSD to GRIDCO, liquidated damages for delay etc., the Scheduled Commissioning Date (or extended Scheduled Commissioning Date) as defined in this Agreement shall be the relevant date.
- 5.1.8 The BESSD shall submit requisite documents as mentioned below, as per OERC's latest Grid Connectivity and Intra-State Open Access Regulations and amendments thereto, at least 30 days prior to trial run of the Project –
- i. Intimation regarding the timeline for commencement of supply of power from the Project.
 - ii. Copy of CON-4 report submitted to CTU.
 - iii. Installation report duly signed by the authorized signatory. The BESSD is advised to take due care in furnishing such Installation Report.
 - iv. CEI/CEIG (as applicable) report containing approval for all the components, including Batteries, inverters, transformers, transmission system and protection system, along with all annexures/attachments. It would be the responsibility of the BESSD to obtain the certificate.
 - v. Approval of metering arrangement/scheme from CTU/GRID-INDIA/ any other concerned authority as applicable.
 - vi. Plant Layout, Plant (AC & DC) SLD.
 - vii. Affidavit certifying that the BESSD has obtained all the necessary approvals for commencement of power supply from the Project, and indemnifying GRIDCO against any discrepancies in the above details.
 - viii. Affidavit from the BESSD certifying possession of land identified for the Project, bearing the details of such land parcels where Project is located, and indemnifying GRIDCO against any discrepancies in the above details.
 - ix. Documents to establish the compliance of technical requirement as per BESPA/RfS.
 - x. Invoices against purchase of the Batteries, Inverters/PCUs, SCADA and BMS along with the summary sheet containing the list of all the invoices, inverters including details and number of items. Lorry Receipts for delivery of Project components at site along with certified summary sheet by the authorized signatory.

It is clarified that GRIDCO shall bear no responsibility in declaration of commissioning/COD of the Project. However, on the basis of above documents, the BESSD shall be required to obtain No-objection certificate (NOC)/BESPA Compliance Certificate from GRIDCO prior to declaration of commissioning/COD of the Project.

Prior to declaration of commencement of power supply, the BESSD shall submit COD certificate for the corresponding Installed Capacity which has commenced power supply to GRIDCO as part of the requisite documents.

5.1.9 Early Commissioning

The BESSD shall be permitted for full commissioning of the Project even prior to the Scheduled Commissioning Date.

Early commissioning of the Project will be allowed solely at the risk and cost of the BESSD, and GRIDCO shall purchase the capacity from such early commissioned Project at the proportionate BESPA charges calculated on day-to-day availability basis (for the Contracted Capacity), along with applicable penalty on account of excess conversion losses considering RtE of 85%.

In case of early commissioning and offtake of capacity by GRIDCO, the BESSD shall arrange for any augmentation of the Battery capacity to meet the capacity criteria mentioned at the time of SCD (i.e. dispatchable capacity as on SCD shall be 100% of the Contracted Capacity) and to maintain the capacity at the end of every year as indicated in Clause 8.1.c. iv. of the RfS.

ARTICLE 6: DISPATCH AND SCHEDULING

6.1 *Dispatch and Scheduling*

6.1.1 The BESSD, in consultation with GRIDCO/ OERC, shall be required to charge/ discharge the Battery System as per the applicable regulations / requirements / guidelines of OERC /SLDC / RLDC/ NLDC or any other competent agency and same being recognized by the SLDC/NLDC or any other competent authority / agency as per applicable regulation/ law / direction and maintain compliance to the applicable Codes/ Grid Code requirements and directions, if any, as specified by concerned SLDC/RLDC from time to time. Till the implementation of OERC Intra-State Deviation Settlement Mechanism (DSM) regulations, the deviation settlement of the Project shall be computed as per CERC DSM regulations, as amended from time to time. Charges on account of such deviation shall be settled between GRIDCO and BESSD.

6.1.2 The BESSD shall be responsible for directly coordinating and dealing with the GRIDCO, SLDC in all respects in regard to declaration of availability, scheduling and dispatch of charging and discharging power and due compliance with deviation and settlement mechanism and the applicable Grid code Regulations.

6.1.3 Reactive power charges, as applicable, shall be on account of the BESSD at its end during charging and discharging, as per OERC regulations.

6.1.4 The BESSD shall be the consumer of concerned DISCOM for drawl of power during construction period and for auxiliary consumption of the Project. Cost of such power shall be borne by the BESSD as per the Retail Supply Tariff (RST) Order of concerned DISCOM, from time to time.

6.1.5 Not used.

6.1.6 Not used.

ARTICLE 7: METERING

7.1 *Meters*

- 7.1.1 For installation of Meters, Meter testing, Meter calibration and Meter reading and all matters incidental thereto, the BESSD shall follow and be bound by the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, the Grid Code or equivalent OERC regulations) as applicable), as amended and revised from time to time.
- 7.1.2 The BESSD shall bear all costs pertaining to installation, testing, calibration, maintenance, renewal and repair of meters at BESSD side of Delivery Point for injection and drawl of power from the Grid during discharging and charging of BESS.
- 7.1.3 In addition to ensuring compliance of the applicable codes, the BESSD shall install Main & Check meters at the Delivery Point for both Charging and Discharging, as per the applicable Central/State regulations (as applicable). Further, one complete spare set of tested, calibrated and sealed Meters shall be kept in safe custody of the BESSD. All such Meters shall be sealed in presence of GRIDCO/ DISCOM/OPTCL and BESSD, which seal shall remain intact unless it is broken by the Testing Laboratory for testing and calibration.7.1.4 Authorized representative(s) of GRIDCO, DISCOM/OPTCL & SLDC shall have the unrestricted free entry into the metering points.
- 7.1.5 Additional meters required, if any, for proper energy accounting of the project of BESSD, shall be installed by the BESSD at its own cost as per the direction/supervision of DISCOM/OPTCL/SLDC.

7.2 *Reporting of Metered Data and Parameters*

- 7.2.1 Online arrangement would have to be made by the BESSD for submission of metering data regularly for the entire period of this Agreement to the SLDC, GRIDCO/OPTCL and the concerned Ministry or concerned agency as per applicable regulation / directions.
- 7.2.2 Reports on metering parameters on monthly basis, and/or as required by regulation / Guidelines, shall be submitted by the BESSD to GRIDCO/ OPTCL for entire Term of the BESPA.

ARTICLE 8: INSURANCES

8.1 *Insurance*

8.1.1 The BESSD shall effect and maintain or cause to be effected and maintained, at its own cost and expense, throughout the Term of BESPA, 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, including life insurance coverage its own or any third party human resources 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, and under the applicable laws.

8.1.2 The BESSD shall submit the Insurance copy to GRIDCO at the time of commissioning of project.

8.2 *Application of Insurance Proceeds*

8.2.1 In case of the Project not being implemented through Financing Agreement(s), save as expressly provided in this Agreement or the Insurances, the proceeds of any insurance claim made due to loss or damage to the BESS or any part of the BESS shall be first applied to reinstatement, replacement or renewal of such loss or damage to the Contracted Capacity followed by the outstanding claims of GRIDCO against BESSD, if any.

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 Project to any part of the BESS shall be applied as per such Financing Agreements.

8.2.2 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, GRIDCO shall have claim on such proceeds of such Insurance limited to outstanding dues of GRIDCO against BESSD.

8.3 *Effect on liability of GRIDCO*

8.3.1 Notwithstanding any liability or obligation that may arise under this Agreement, any loss, damage, liability, payment, obligation or expense which is insured or not or for which the BESSD can claim compensation, under any Insurance shall not be charged to or payable by Buyer. It is for the BESSD to

ensure that appropriate insurance coverage is taken for payment by the insurer for the entire loss and there is no under insurance or short adjustment etc.

ARTICLE 9: APPLICABLE TARIFF

- 9.1 The BESSD shall be entitled to receive the Tariff of INR_____/MW/Month [Insert the Tariff discovered through the bidding process conducted by SECI], fixed for the entire term of this Agreement, with effect from the SCD, the Contracted Capacity made available to the GRIDCO during BESPA Period, as per the provision of this agreement.

For each kVARh drawn from the grid, the BESSD shall pay at the rate determined by SERC to GRIDCO/OPTCL from time to time.

- 9.2 GST levied on the energy storage facility provided by the BESSD, if any, (as and when notified by GoI), shall be over and above the afore-mentioned tariff and shall be passed through to GRIDCO as per provisions of the RfS.
- 9.3 GRIDCO agrees to use the battery capacity from a date prior to the SCD, and such capacity shall be purchased at the Applicable Tariff (as per Article 9.1).

ARTICLE 10: BILLING AND PAYMENT

10.1 *General*

- 10.1.1 GRIDCO shall set up a payment security fund in order to ensure timely payment, which shall be suitable to support payment of at least 3 (three) months' billing.
- 10.1.2 From the commencement of availability of BESS Capacity, GRIDCO shall pay to the BESSD the monthly Tariff Payments subject to the adjustments as per provisions of this Agreement including Article 6, in accordance with Article 9. All capacity charge Payments by GRIDCO shall be in Indian Rupees.
- 10.1.3 Subject to the provision of this Agreement, BESSD shall be required to make arrangement of auxiliary power at its own risk and cost.
- 10.1.4 The parties acknowledge and accept that the Electricity (Late Payment Surcharge and related matters) Rules, 2022 [hereinafter referred to as '**Rules**'] notified by the Central Government in exercise of the power conferred by Sub-section (1) of Section 176 of the Electricity Act, 2003 shall apply and govern the terms and conditions of this Agreement in regard to matters contained in the said Rules including but not limited to the Late Payment Surcharge, adjustment towards the Late Payment Surcharge, Payment Security mechanism-its operations and consequences, actions of Defaulting Entities, supply obligation of BESSD, power not requisitioned by GRIDCO, the order of payment and adjustment towards late payment surcharge and indemnification. The Rules referred to hereinabove being statutory shall, to the extent applicable, supersede any provisions in this BESPA which are inconsistent or contrary to the provisions of the Rules.

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

- 10.2.1 The BESSD shall issue to GRIDCO hard copy of a signed Monthly Bill/Supplementary Bill for the immediately preceding Month/relevant period, including the time-block-wise data in the tabular format as per Illustration in Schedule-4, along with all relevant documents. The BESSD shall also submit calculations of System Availability and Round-trip Efficiency in line with provisions of this Agreement, as part of the Monthly Bill/Supplementary Bill.

10.2.2 As per applicable regulation(s) of the Appropriate Commission(s)/ SERC(s), all charges pertaining to scheduling of power, if any, shall be borne by GRIDCO except the Auxiliary Power, which will be borne by BESSD.

10.2.3 BESSD shall submit the export energy JMR at delivery point signed by GRIDCO and BESSD authorized signatory with the capacity charges monthly invoice.

10.3 ***Payment of Monthly Bills***

10.3.1 Subject to the provisions of Article 10.3.4, GRIDCO shall pay the amount payable under the Monthly Bill/Supplementary Bill by the Due Date to such account of the BESSD, as shall have been previously notified by the BESSD. The BESSD shall open a bank account (the "BESSD's Designated Account") for all Tariff Payments (including Supplementary Bills) to be made by GRIDCO to the BESSD, and notify GRIDCO of the details of such account at least ninety (90) Days before the dispatch of the first Monthly Bill. GRIDCO shall also designate a bank account at Bhubaneswar, Odisha ("GRIDCO Designated Account") for payments to be made by the BESSD to GRIDCO, if any, and notify the BESSD of the details of such account ninety (90) Days before the Scheduled Commissioning Date. GRIDCO and the BESSD shall instruct their respective bankers to make all payments under this Agreement to the BESSD's Designated Account or GRIDCO's Designated Account, as the case may be, and shall notify either Party of such instructions on the same day

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

- i) deductions required by the Law; and
- ii) amount claimed by GRIDCO, if any, from the BESSD, will be adjusted from the monthly energy payment. In case of any excess payment adjustment, 1.25% surcharge will be applicable on day to day basis.

10.3.3 **Late Payment Surcharge**

In the event of delay in payment of a Monthly Bill by GRIDCO beyond Due Date, as per Late Payment Surcharge Rules 2022 as amended from time-to-

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

- 10.3.4 Subject to the Article 9 of this Agreement, in the event of early Commissioning of the Project and subject to acceptance by GRIDCO, the payment for the Capacity charges may be accounted from the date of UCOD, and BESSD would be allowed to raise Bills against such capacity as per Article 10.2.1, subject to the conditions as stipulated in Article 9. However, payment against the 1st such bill raised by the BESSD, will be made subject to acceptance of the bill by GRIDCO.

10.3.5 Rebate

For payment of any Bill before Due Date, the following Rebate shall be paid by the BESSD to GRIDCO in the following manner:

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

10.4 Payment Security Mechanism

(A) Letter of Credit (LC):

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

- 10.4.2 Subject to Article 10.4.1, before the start of supply, GRIDCO shall, through a scheduled bank at Bhubaneswar, Odisha, open a Letter of Credit in favour of the BESSD, to be made operative from a date prior to the Due Date of its first Monthly Bill under this Agreement. The Letter of Credit shall have a term of twelve (12) Months and shall be renewed annually, for an amount equal to:
- i) for the first Contract Year, equal to 110% of the estimated average monthly billing;
 - ii) for each subsequent Contract Year, equal to 110% of the average of the monthly billing of the previous Contract Year.
- 10.4.3 Provided that the BESSD shall not draw upon such Letter of Credit prior to 30 days beyond the Due Date of the relevant Monthly Bill and/or Supplementary Bill, and shall not make more than one drawl in a Month.
- 10.4.4 Provided further that if at any time, such Letter of Credit amount falls short of the amount specified in Article 10.4.2 due to any reason whatsoever, GRIDCO shall restore such shortfall before next drawl.
- 10.4.5 GRIDCO shall cause the scheduled bank issuing the Letter of Credit to intimate the BESSD, in writing regarding establishing of such irrevocable Letter of Credit.
- 10.4.6 GRIDCO shall ensure that the Letter of Credit shall be renewed not later than its expiry.
- 10.4.7 All costs relating to opening, maintenance of the Letter of Credit shall be borne by GRIDCO.
- 10.4.8 If GRIDCO fails to pay undisputed Monthly Bill or Supplementary Bill or a part thereof within and including the date as on 30 days beyond the Due Date, then, subject to Article 10.4.6 & 10.5.2, the BESSD may draw upon the Letter of Credit, and accordingly the bank shall pay, an amount equal to such Monthly Bill or Supplementary Bill or part thereof, in accordance with Article 10.4.3 above, by presenting to the scheduled bank issuing the Letter of Credit, the following documents:
- i) a copy of the Monthly Bill or Supplementary Bill (only for energy related bills) which has remained unpaid to BESSD and;
 - ii) a certificate from the BESSD 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;

iii) Undertaking from the BESSD that the bill is not disputed by GRIDCO;

In case of wrongful drawal of the Letter of Credit, the BESSD would be liable to further interest equivalent to late payment surcharge considered from the date of drawal of letter of credit.

(B) Omitted..

10.5 Disputed Bill

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

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

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

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

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

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

10.5.5 Upon receipt of the Bill Disagreement Notice by the GRIDCO under Article 10.5.4, authorized representative(s) or a director of the board of directors/ member of board of the GRIDCO and BESSD shall meet and make best

endeavours to amicably resolve such dispute within fifteen (15) days of receipt of the Bill Disagreement Notice.

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

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

10.6 Quarterly and Annual Reconciliation

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

10.6.2 The Parties, therefore, agree that as soon as all such data in respect of any quarter of a Contract Year or a full Contract Year as the case may be has been finally verified and adjusted, the BESSD and GRIDCO shall jointly sign such reconciliation statement. Within fifteen (15) days of signing of a reconciliation statement, the BESSD shall make appropriate adjustments in the next Monthly Bill. Late Payment Surcharge/ interest shall be payable in such a case from the date on which such payment had been made to the invoicing Party or the date on which any payment was originally due, as may be applicable. Any Dispute with regard to the above reconciliation shall be dealt with in accordance with the provisions of Article 16.

10.7 *Payment of Supplementary Bill*

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

- i) Adjustments required by the Energy Accounts (if applicable); or
- ii) Change in Law as provided in Article 12

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

10.7.2 GRIDCO shall remit all amounts due under a Supplementary Bill raised by the BESSD to the BESSD's Designated Account by the Due Date, except for open access charges, RLDC/SLDC or scheduling charges and transmission charges (if applicable). Except for payment under Article 10.7.1 (i), payment of Supplementary Bills will be made after realization of the same from the GRIDCO. No Late Payment Surcharge will be applicable other than that on the monthly energy payment and associated debit and credit note.

10.8 Viability Gap Funding Scheme supported through PSDF

10.8.1 In line with the Order for “Viability Gap Funding (VGF) Scheme for development of Battery Energy Storage Systems (BESS) supported through Power System Development Fund (PSDF)”, issued by the Ministry of Power dated 09.06.2025, Projects selected under this RfS will be eligible for grant of VGF support through PSDF by the Government for development of BESS, and the same will be disbursed through the GRIDCO.

10.8.2 Under this RfS, VGF amount eligible for each BESSD shall be limited to the amount calculated @Rs. 18,00,000/MWh (Rupees Eighteen Lakhs per MWh) for the Project Capacity awarded

BESS Developer shall submit certificate for the capital cost incurred for the Project awarded capacity, duly certified by the Statutory Auditors, within six months from the COD.

10.8.3 VGF will be sanctioned separately for each Project, based on the Project Capacity as defined in the respective BESPAs.

10.8.4 Disbursement Schedule: The VGF amount to the eligible Projects shall be disbursed in 3 tranches as detailed below:

Milestone	Percentage of VGF disbursed
On financial Closure, subject to submission of Bank Guarantee	20 %
On Commercial Operation Date (COD)	50 %
Completion of 1 st year from COD	30 %
Total	100 %

10.8.5 The VGF for each project shall be disbursed to GRIDCO, once the CEA certifies the achievement of the disbursement schedule milestone and submission of the required Bank Guarantee by BESSD.

GRIDCO shall disburse the tranche wise VGF to BESSD only after receipt of the same from the Govt. of India and Submission of BG by BESSD as per Article 10.8.6.

10.8.6 Bank Guarantee/ Insurance Surety Bond against the VGF to be disbursed:

BESS Developer is required to submit a Bank Guarantee (BG) or Insurance Surety Bond (ISB) to PSPCL of value equal to the VGF to be disbursed, prior its release to BESSD by PSPCL (BG/ISB shall be submitted in three parts as per the disbursement of VGF amount). This BG/ISB shall be liable for encashment to recover the VGF amount in the event of non-fulfillment of scheme conditions specified in the RfS and BESPA documents. The BG/ISB for the VGF sanctioned up to COD will be released 01 year subsequent to the Commercial Operational Date (COD), after taking into account recovery of VGF, if any.

Further, no BG/ISB is required against the disbursement of the last tranche of VGF post completion of one year of operation, after taking into account recovery of VGF, if any. It is clarified that; this BG is in addition to the Performance Bank Guarantee (PBG) provided by the BESSD as per Clause 19 of this RfS.

10.8.7 If the BESSD fails to commission the project in the timeline provided in this BESPA, and project gets terminated after disbursement of the quantum of VGF, GRIDCO will have full right to recover the total amount of VGF being disbursed till the date of termination of BESPA plus interest @ SBI-MCLR (1 Year) plus five (5) percent, as existing on the date of disbursement, accrued from the date of disbursement on the disbursed amount. In case Project capacity is being reduced as per Article 4.6.1(b) of the BESPA, recovery of VGF amount shall be made on pro-rata basis corresponding to the capacity being terminated.

10.8.8 GRIDCO will have the right to recover the VGF disbursed through encashment of BG, if the BESPA gets terminated within the first 2 years after COD of the Project, on account of reasons solely attributable to the BESSD. Irrespective of the year of termination within the first 2 years after COD, the VGF amount to be recovered will be fixed as the amount disbursed plus interest @ SBI-MCLR (1 Year) plus five (5) percent, as existing on the date

of disbursement, accrued from the date of disbursement on the disbursed amount.

- 10.8.9 If the Project is transferred or sold to a third party during the above tenure (i.e. 2 years from the COD), the BG will be re-issued by the new entity, corresponding to the amount applicable. The sale/transfer of the Project shall be effective only on submission of BG by new entity. However, this will be subject to prior approval of sanctioning authority of Grants-in-Aid {Rule 230(9)}, in view of the asset being acquired substantially out of Government Grants.
- 10.8.10 BESS Project acquired wholly or substantially out of Central Government Grants shall not be disposed of during the contract period without obtaining the prior approval of the sanctioning authority of Grants-in-Aid {Rule 230(9)}. Shareholding of the bidding entity in the SPV/ project company executing the BESS project shall not fall below fifty-one per cent at any time prior to Commercial Operation Date (COD).
- 10.8.11 The VGF amount (Grant-in-Aid) is also subject to the Chapter 9 of the General Financial Rules, 2017, as amended from time to time, read with the Government of India's decisions incorporated there-under, and any other guidelines which may be issued in this regard.

ARTICLE 11: FORCE MAJEURE

11.1 *Definition of Force Majeure*

A 'Force Majeure' (FM) would mean one or more of the following acts, events or circumstances or a combination of acts, events or circumstances or the consequence(s) thereof, that wholly or partly prevents or unavoidably delays the performance by the Party (the Affected Party) of its obligations under 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.

An Affected Party means GRIDCO or the BESSD whose performance has been affected by an event of Force Majeure.

11.2 *Force Majeure Events*

- a) Act of God, including, but not limited to lightning, fire and explosion (to the extent originating from a source external to the site), earthquake, volcanic eruption, landslide, flood, epidemic, pandemic, cyclone, typhoon or tornado if it is declared / notified by the competent state / central authority / agency (as applicable), or verified to the satisfaction of Procurer;
- b) radio-active contamination or ionising radiation originating from a source in India or resulting from another Force Majeure Event mentioned above excluding circumstances where the source or cause of contamination or radiation is brought or has been brought into or near the Project by the Affected Party or those employed or engaged by the Affected Party.
- c) The discovery of geological conditions, toxic contamination or archaeological remains on the Project land that could not reasonably have been expected to be discovered through an inspection of the Project land and/or as per prudent industry practices.
- d) Exceptionally adverse weather condition which are in excess of the statistical measure of the last hundred (100) years.
- e) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action, or Industrywide strikes and labour disturbances, having a nationwide impact in India, if and only if it is declared / notified

by the competent state / central authority / agency (as applicable)

- f) Nationalisation or any compulsory acquisition by any Indian Governmental Instrumentality/ State Government in national interest or expropriation of any material Project assets or rights of the BESSD, as a result of which the BESSD or its shareholders are deprived (wholly or partly) of their rights or entitlements under this BESP. Provided that such action does not constitute remedies or sanctions lawfully exercised by the Procurer or any other Government Authority as a result of any breach of any of the Applicable Laws or the Applicable Permits by the BESSD or the BESSD related parties
- g) An event of Force Majeure affecting delivery / offtake of power / Contracted Capacity from BESSD to GRIDCO.

11.3 Force Majeure Exclusions

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

- a. Unavailability, late delivery, or changes in cost of the plant, machinery, equipment, materials, spare parts or consumables for the Power Project/ BESS;
- 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 / BESS 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 lack of due diligence expected from any prudent and rational human being;
 - ii. Failure to comply with an Indian Law; or
 - iii. Breach of, or default under this Agreement.

11.4 Notification of Force Majeure Events

11.4.1 The Affected Party shall give notice to the other Party of any event of Force Majeure as soon as reasonably practicable, but not later than fifteen (15) days

after the date on which such Party knew or should reasonably have known of the commencement of the event of Force Majeure. If an event of Force Majeure results in a breakdown of communications rendering it unreasonable to give notice within the applicable time limit specified herein, then the Party claiming Force Majeure shall give such notice as soon as reasonably practicable after reinstatement of communications, but not later than one (1) day after such reinstatement. The Party who receives the Force Majeure Notification, shall take a decision on the claim of occurrence of Force Majeure Event, within 30 days of the receipt of the intimation, accompanied with supporting documents available with the Affected Party.

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

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

11.5 *Performance Excused*

11.5.1 The Affected Party, to the extent rendered unable to perform its obligations or part of the obligation thereof under this Agreement as a consequence of the Force Majeure Events, shall be excused from performance of the obligations, provided that the period shall not exceed 180 (one hundred and eighty) Days from the date of issuance of the FM Notice or any extended period as mutually agreed. The Parties may mutually agree to extend the period for which performance is excused due to a Force Majeure Events. However, in case of the FM continuing upto a period of 180 days or any extended period as mutually agreed, either Party has the right to terminate the BESPA

11.5.2 For the time period, as mutually agreed by the Parties, during which the performance shall be excused, the BESSD shall be entitled for a day to day

extension of the period provided for Financial Closure or Scheduled Commissioning Period or the BESPA period, as the case may be. However, adjustment in tariff shall not be allowed on account of Force Majeure event.

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

11.5.4 Provided further that, nothing shall absolve the Affected Party from any payment obligations accrued prior to the occurrence of the underlying Force Majeure Event.

11.6 *No Liability for Other Losses*

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

11.7 *Resumption of Performance*

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

11.8 *Duty to Perform and Duty to Mitigate*

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

11.9 *Available Relief for a Force Majeure Event*

Subject to this Article 11:

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

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

11.10 *Available Relief & Termination Due to Force Majeure Events*

- a) If, prior to the completion of the 180 (one hundred and eighty) Day period (or any extended period) for a Force Majeure Events commencing from the date of issuance of the Force Majeure Notice, the Parties are of the reasonable view that a Force Majeure Event is likely to continue beyond such 180 (one hundred and eighty) Day period or any extended period agreed in pursuance of Article 11.5 (Performance Excused); or that it is uneconomic or impractical to restore the affected Unit, then the Parties may mutually decide to terminate the BESPA, and the termination shall take effect from the date on which such decision is taken.
- b) In case of occurrence of an event which is not a Force Majeure as per provision of this Agreement, but causes some hardship in development of the Project, which may or may not be recognized by the Government of India and for which the Government of India has or hasn't granted any extension of time or any other relief; such event, even if sustained beyond 180 days shall not be considered as a reason for termination of BESPA under this Article.
- c) Without prejudice to the provisions of Article 11.10.(a) above, the Affected Party shall, after the expiry of the period of 180 (one hundred and eighty) Days or any other mutually extended period, be entitled to forthwith terminate the BESPA in its sole discretion by issuing a notice to that effect.
- d) On termination of the BESPA pursuant to Article 11.10.(b):

- i. In case of termination on account of event listed as Force Majeure as under Article 11.2 (a), (b), (c) and (d), no Termination Compensation shall be payable to the BESSD.
- ii. In case of termination at the instance of the BESSD, on account of an event listed as Force Majeure as per Article 11.2 (e) and (f) above, the Procurer will have the option to (but will not be obliged to) take- over the Project Assets by paying Debt Due. In case the Procurer chooses not to exercise the aforementioned option, and the same is not agreed to by the BESSD, it will result in a dispute as per the BESPA and will be resolved as per the Dispute Resolution mechanism under the BESPA.
- iii. the BESSD shall be eligible for undisputed payments under outstanding Monthly Bill(s), before the occurrence of Force Majeure Event.

ARTICLE 12: CHANGE IN LAW

12.1 Definitions

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

12.1.1 In this Article 12, the term Change in Law shall refer to the occurrence of any of the following events pertaining to this Project only after ____ [Enter the last date of bid submission of the referred RfS], which have a direct effect on the Project, leading to corresponding changes in the cost requiring change in tariff, and includes:

- (i) change in interpretation of any law by a competent court; or
- (ii) the enactment of any new law; or
- (iii) 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; or
- (iv) 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.

However, Change in Law/ Regulation shall not include

- (i) any change in taxes on corporate income or any change in any withholding tax on income or dividends, or
- (ii) change in respect of deviation settlement charges or frequency intervals by an Appropriate Commission. The term “law” in this provision, includes any Act, Ordinance, order, bye-law, rule, regulation, notification, for the time being in force, in the territory of India.
- (iii) Any event occurring after the SCD/extended SCD, which would not have affected the Project had the Project been commissioned before the SCD/extended SCD.

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

12.1.2 In the event of occurrence of any of events as provided under Article 12.1.1 which results in any adverse financial loss/ gain to the BESSD/Procurement then, in order to ensure that the BESSD/Procurement is placed in the same financial position as it would have been had it not been for the occurrence of the Change in Law, the BESSD/ Procurement shall be entitled to compensation by the other

party, as the case may be. Compensation payment on account of such ‘Change in Law’ shall be determined and shall be effective from such date as may be decided by the Appropriate Commission.

12.2 Relief for Change in Law

12.2.1 In case of Change in Law taking place prior to commissioning of the Project, the compensation will be passed through on in the form of increase/decrease in the tariff, linked with increase/decrease in the Project cost, which will be automatically paid through the monthly energy billing. The pass through in this case shall be as per the formula / provisions as stipulated in Schedule-A and shall be effective from date of commissioning of the Project. BESSD shall be required to provide a statutory auditor certificate supported by Board Resolution in regard to implications (loss/ gain) arising out of Article 12.

12.2.2 In case of Change in Law taking place subsequent to commissioning of the Project capacity, and changes in taxes/duties/cess etc. are defined as a percentage or the ratio of the tariff, the changes will be automatically passed on as appropriate increment/decrement in the tariff, and will be paid through monthly energy billing. BESSD shall be required to provide a statutory auditor certificate supported by Board Resolution in regard to implications (loss/ gain) arising out of Article 12.

12.2.3 For the purpose of Article 12.1.2 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.

The affected party shall furnish to the other party, the computation of impact in tariff or charges to be adjusted and recovered, within 30 days of the occurrence of the change in law or on the expiry of 21 days from the date of the notice referred above, whichever is later, and the recovery of the proposed impact in tariff or charges shall start from the next billing cycle of the tariff.

12.2.4 Within 30 days of coming into effect of such relief of Change in Law, the BESSD shall approach the Appropriate Commission for Truing up of the calculations on account of the above Change in Law events, failing which further payment will be discontinued and GRIDCO shall make such deductions in the monthly tariff payments on immediate basis. In the event of any decision

by the Appropriate Commission which modifies or cancels any changes in the tariff, recovery/additional payment of the amount already paid until then, will be done immediately.

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 as required above.

- 12.2.5 Further, in case of Change in Law during the operational period of the Project, and where such change is not applicable as an automatic modification in the tariff, suitable compensation will be provided as decided by the Appropriate Commission.
- 12.2.6 In case Change in Law results in delay in commissioning of the Project, where cause and effect between these two can be clearly established, GRIDCO may provide suitable time-extension in Financial Closure, Scheduled Commissioning Date or Scheduled Date of Commencement of Supply of Power, as the case may be.
- 12.2.7 If the event of any decrease in the project cost by the BESSD or any income to the BESSD on account of any of the events as indicated above, BESSD, as per methodology / formula specified in Schedule-A, shall pass on the benefit of such reduction to GRIDCO. In the event of the BESSD failing to comply with the aforementioned requirement, GRIDCO shall make such deductions in the monthly tariff payments on immediate basis.
- 12.2.8 After the adjustment of the amount of the impact in the tariff, the BESSD, shall adjust the monthly tariff or charges annually based on actual amount recovered/paid, to ensure that the payment to the affected party is not more than the yearly annuity amount.
- 12.2.9 The recovery of the impacted amount, in case of the fixed amount shall be,—
(a) within a period of one-hundred eighty months; or
(b) in case of recurring impact, until the impact persists

12.3 Notification of Change in Law

- 12.3.1 In case any increase or decrease in the Project Cost occurs due to Change in Law affecting the Tariff payable under this Agreement, in accordance with Article 12, the BESSD shall serve notice to GRIDCO of such Change in Law for giving a three weeks prior notice about the proposed impact in tariff, positive or negative,

to be recovered. BESSD, within thirty days of the occurrence of the change in law or on the expiry of three weeks from the date of the aforementioned notice referred whichever is later, shall furnish GRIDCO, the computation of impact in tariff or charges to be adjusted and recovered. Such recovery and adjustment of the proposed impact in tariff or charges shall start from the next billing cycle of the tariff.

- 12.3.2 Any notice service pursuant to this Article 12, shall provide, amongst other things, precise details of the Change in Law and its effect on the Project Cost and computation of change in Tariff which shall be 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.

ARTICLE 13: EVENTS OF DEFAULT AND TERMINATION

13.1 *BESSD Event of Default*

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

- (i) the failure to commence availability of BESS for providing Energy Storage capacity to GRIDCO up to the Contracted Capacity, by the end of the period specified in Article 4, or failure to demonstrate guaranteed availability of such energy storage capacity to GRIDCO within six months from the identification of reduced annual availability during the term of this Agreement, or if
 - a) the BESSD assigns, mortgages or charges or purports to assign, mortgage or charge any of its assets or rights related to the Project in contravention of the provisions of this Agreement; or
 - b) the BESSD transfers or novates any of its rights and/ or obligations under this agreement, in a manner contrary to the provisions of this Agreement; except where such transfer
 - is in pursuance of a Law; and does not affect the ability of the transferee to perform, and such transferee has the financial capability to perform, its obligations under this Agreement or
 - is to a transferee who assumes such obligations under this Agreement and the Agreement remains effective with respect to the transferee;
- (ii) if (a) the BESSD 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 BESSD, or (c) the BESSD 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 BESSD will not be a BESSD 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 BESSD and expressly assumes all obligations of the BESSD under this Agreement and is in a position to perform them; or
- (iii) the BESSD repudiates this Agreement and does not rectify such breach within a period of thirty (30) days from a notice from GRIDCO in this regard; or
 - (iv) except where due to any GRIDCO's failure to comply with its material obligations, the BESSD is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the BESSD within thirty (30) days of receipt of first notice in this regard given by GRIDCO.
 - (v) change in controlling shareholding before the specified time frame as mentioned in Article 4.1.1 of this Agreement; or
 - (vi) occurrence of any other event which is specified in this Agreement to be a material breach/ default of the BESSD.

13.2 *GRIDCO Event of Default*

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

- (i) GRIDCO fails to pay (with respect to a Monthly Bill or a Supplementary Bill), subject to Article 10.5, for a period of ninety (90) days after the Due Date and the BESSD is unable to recover the amount outstanding to the BESSD through the Letter of Credit,
- (ii) GRIDCO repudiates this Agreement and does not rectify such breach even within a period of sixty (60) days from a notice from the BESSD in this regard; or
- (iii) except where due to any BESSD's failure to comply with its obligations, GRIDCO is in material breach of any of its obligations pursuant to this Agreement, and such material breach is not rectified by GRIDCO within sixty (60) days of receipt of notice in this regard from the BESSD to GRIDCO; or

(iv) if

- GRIDCO becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of sixty (60) days, or
- any winding up or bankruptcy or insolvency order is passed against GRIDCO, or
- GRIDCO goes into liquidation or dissolution or a receiver or any similar officer is appointed over all or substantially all of its assets or official liquidator is appointed to manage its affairs, pursuant to Law, provided that it shall not constitute a GRIDCO Event of Default, where such dissolution or liquidation of GRIDCO is for the purpose of a merger, consolidation or reorganization and where the resulting entity has the financial standing to perform its obligations under this Agreement and has creditworthiness similar to GRIDCO and expressly assumes all obligations of GRIDCO and is in a position to perform them; or;

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

13.3 Procedure for cases of BESSD Event of Default

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

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

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

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

13.3.5 Subject to the terms of this Agreement, upon occurrence of an BESSD Event of Default under this Agreement, the BESSD shall be liable to pay to GRIDCO, liquidated damages, as provided in Article 4.6 of the BESPAs for failure to commission within stipulated time and Article 4.4.1 for failure to supply power in terms of the BESPAs. For other cases, the BESSD shall be liable pay to GRIDCO, damages, equivalent to 6 (six) months, or balance BESPAs period whichever is less, of charges for its contracted capacity. GRIDCO shall have the right to recover the said damages by way of forfeiture of bank guarantee/ Surety Bond, if any, without prejudice to resorting to any other legal course or remedy. In addition to the levy of damages as aforesaid, the lenders in concurrence with the GRIDCO, may exercise their rights, if any, under Financing Agreements, to seek substitution of the BESSD by a selectee for the residual period of the Agreement, for the purpose of securing the payments of the total debt amount from the BESSD and performing the obligations of the BESSD. However, in the event the lenders are unable to substitute the defaulting BESSD within the stipulated period, and if the GRIDCO desires to acquire the Project assets, it may do so, by paying to the BESSD, a compensation as mutually decided by the GRIDCO and the lender. In case the GRIDCO chooses not to exercise the above option, or GRIDCO and the lender are unable to come to an agreement, the lenders may liquidate the Project assets and recover their dues, as the last resort. Provided that any substitution under this Agreement can only be made with the prior consent of GRIDCO including the condition that the selectee meets the eligibility requirements of Request for Selection (RfS) issued by SECI and accepts the terms and conditions of this Agreement.

13.3.6 The lenders in concurrence with the GRIDCO, may seek to exercise right of substitution under Article 13.3.5 by an amendment or novation of the BESPAs in favour of the selectee. The BESSD shall cooperate with GRIDCO to carry out such substitution and shall have the duty and obligation to continue to operate the Project in accordance with this BESPAs 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 BESPAs 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 BESSD to GRIDCO.

13.4 *Procedure for cases of GRIDCO Event of Default*

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

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

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

13.4.4 After a period of two hundred ten (210) days following the expiry of the Consultation Period and unless the Parties shall have otherwise agreed to the contrary or GRIDCO Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, GRIDCO under intimation to the BESSD shall, subject to the prior consent of the BESSD, novate its part of the BESPAs to any third party, including its Affiliates, within the stipulated period. In this case, GRIDCO shall pay amount equivalent to 3 (three) months of energy billing based on the declared availability, or balance Term of the BESPAs, whichever is less, for its Contracted Capacity, with the

Project assets being retained by the BESSD, and exit from the BESPA. In the event the aforesaid novation is not acceptable to the BESSD, or if no offer of novation is made by GRIDCO within the stipulated period, then the BESSD may terminate the BESPA and choose to either continue operating the Project by itself finding an alternate procurer or to discontinue the operation of the Project. If the BESSD chooses to continue operating the project, GRIDCO will pay to the BESSD, 'termination compensation' equivalent to 6 (six) months of energy billing corresponding to the declared availability, or balance Term of the BESPA, whichever is less, for its Contracted Capacity.

If the BESSD decides to discontinue the operation of the Project, it may require GRIDCO to make a payment of the 'termination compensation' which will be equivalent to the amount of the Debt due and 110% (one hundred and ten per cent) of the Adjusted Equity, less Insurance Cover if any.

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

In the event of termination of BESPA, on account of Event of Default by the GRIDCO, any damages or charges payable to the STU/ CTU, for the connectivity of the plant, shall be borne by the by the entity due to whose failure, the termination was triggered.

13.5 *Termination due to Force Majeure*

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

- 13.6 In all cases, the lenders may also step in where appropriate as provided in the financing documents. Further, in all cases, the defaulting Party will be required to pay the applicable compensation, including VGF disbursed by GRIDCO, within 3 months from the due date of such payment, subsequent to which, the defaulting Party will be required to pay a monthly interest @1% of the compensation.

ARTICLE 14: LIABILITY AND INDEMNIFICATION

14.1 *Indemnity*

14.1.1 The BESSD shall indemnify, defend and hold GRIDCO harmless against:

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

14.1.2 GRIDCO shall indemnify, defend and hold the BESSD harmless against:

- a) any and all third party claims against the BESSD, 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 GRIDCO 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 BESSD from third party claims arising by reason of a breach by GRIDCO of any of its obligations.

14.2 **Procedure for claiming Indemnity**

14.2.1 *Third party claims*

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

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

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

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

- b. The Indemnified Party may contest the claim by referring to the Appropriate Commission for which it is entitled to be Indemnified under Article 14.1.1(a) or 14.1.2(a) and the Indemnifying Party shall reimburse to the Indemnified Party all reasonable costs and expenses incurred by the Indemnified party. However, such Indemnified Party shall not settle or compromise such claim without first getting the consent of the Indemnifying Party, which consent shall not be unreasonably withheld or delayed.

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

14.3 *Indemnifiable Losses*

- 14.3.1 Where an Indemnified Party is entitled to Indemnifiable Losses from the Indemnifying Party pursuant to Article 14.1.1(b) or 14.1.2(b), the Indemnified

Party shall promptly notify the Indemnifying Party of the Indemnifiable Losses actually incurred by the Indemnified Party. The Indemnifiable Losses shall be reimbursed by the Indemnifying Party within thirty (30) days of receipt of the notice seeking Indemnifiable Losses by the Indemnified Party. In case of nonpayment of such losses after a valid notice under this Article 14.3, such event shall constitute a payment default under Article 13.

14.4 *Limitation on Liability*

14.4.1 Except as expressly provided in this Agreement, neither the BESSD nor GRIDCO 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 loss of profit or revenue, incidental or special, indirect or consequential damages, loss of Business reputation 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 GRIDCO, the BESSD or others), strict liability, contract, breach of statutory duty, operation of law or otherwise.

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

14.5 GRIDCO's Liability

14.5.1 Notwithstanding anything to the contrary contained in this Agreement, the Parties acknowledge and accept that the payment of money becoming due from

the GRIDCO to the BESSD under this Agreement for supply of Energy / Capacity to the extent of the Contracted Capacity shall be as per BESPA

14.6 Duty to Mitigate

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

ARTICLE 15: ASSIGNMENTS AND CHARGES

15.1 *Assignments*

This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns. This Agreement shall not be assigned by any Party, other than by mutual consent between the Parties to be evidenced in writing. Such assignment shall be agreed to by GRIDCO subject to the compliance of provisions contained in this Agreement and more specifically to the provisions of Article 4.1.1 of this Agreement. In no case, such assignment shall be permissible prior to the declaration of COD.

Notwithstanding above, this Agreement may be assigned to the Project Lenders or Lender's Representative under the Financing Agreements, under intimation to GRIDCO.

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

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

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

An amount of Rs. 5,00,000.00 (Rupees Five Lakhs Only) with applicable GST per Transaction as Facilitation Fee (non-refundable) shall be deposited by the BESSD to GRIDCO. Provided further that, such consent shall not be withheld by the BESSD if GRIDCO seeks to transfer to any affiliate all of its rights and obligations under this Agreement.

In the event of Change in Shareholding/Substitution of Promoters triggered by the Financial Institutions leading to signing of fresh BESPA with a new entity, an amount of Rs. 10,00,000.00 (Rupees Ten Lakhs Only) with applicable GST per Transaction as Facilitation Fee (non-refundable) shall be deposited by the BESSD to GRIDCO.

15.2 *Permitted Charges*

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

ARTICLE 16: GOVERNING LAW AND DISPUTE RESOLUTION

16.1 *Governing Law*

16.1.1 This Agreement shall be governed by and construed in accordance with the Laws of India. Subject to the provisions of this Clause, any legal proceedings in respect of any matters, claims or disputes under this Agreement shall be under the exclusive jurisdiction of appropriate court and tribunal in Odisha.

16.2 *Amicable Settlement and Dispute Resolution*

16.2.1 *Amicable Settlement*

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

16.3 *Dispute Resolution*

16.3.1 Dispute Resolution process and approval of the Appropriate Commission under Section 86(1) (f) read with Section 158 of the Electricity Act, 2003

- i) Where any Dispute or differences arises in relation to this agreement of any nature whatsoever including the construction, interpretation or implementation of the provisions of this agreement as well as claim made by any Party for any change in or any matter related to Tariff or claims made by any Party which partly or wholly relate to any change in the Tariff or determination of any of such claims could result in change in the Tariff, and relates to any matter agreed to be referred to the Appropriate Commission, shall be submitted for 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 or any statutory re-enactment or modification from time to time being in force.

16.4 *Parties to Perform Obligations*

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

ARTICLE 17: MISCELLANEOUS PROVISIONS

17.1 *Amendment*

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

17.2 *Third Party Beneficiaries*

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

17.3 *Waiver*

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

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

17.4 *Confidentiality*

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

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

17.5 *Severability*

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

17.6 *Notices*

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

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

Address :

Attention :

Email :

Telephone No. :

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

(i) Address :

Attention

Email :

Telephone No. :

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

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

17.7 *Language*

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

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

17.8 *Restriction of Shareholders / Owners' Liability*

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

17.9 *Taxes and Duties*

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

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

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

17.10 *Independent Entity*

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

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

17.11 *Compliance with Law*

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

17.12 *Breach of Obligations*

The Parties acknowledge that a breach of any of the obligations contained herein would result in injuries. The Parties further acknowledge that the amount of the liquidated damages or the method of calculating the liquidated damages specified in this Agreement is a genuine and reasonable pre-

estimate of the damages that may be suffered by the non-defaulting party in each case specified under this Agreement.

17.13 *Order of priority in application*

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

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

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

For and on behalf of
[GRIDCO]

For and on behalf of
[BESSD]

Name, Designation and Address
Signature with seal

Name, Designation and Address
Signature with seal

Witness:

1.

2.

Witness:

1.

2.

Schedule-A:

FORMULA FOR DETERMINATION OF IMPACT IN TARIFF OR CHARGES DUE TO CHANGE IN LAW:

Formula to calculate adjustment in the tariff due to the 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—

$$MT = \frac{Y}{X}$$

where **X** = Contracted Capacity (MW) / (Average Availability during the Month⁻¹);

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

where,—

n = No. of months over which the financial impact has to be paid (subject to a 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); and M_r = monthly rate of interest = $\frac{R}{12 \times 100}$;

where **R** = annual rate of interest on loan component (in %) as considered by the CERC/SERC 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 the CERC/SERC 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, the BESSD shall true up the MT annually 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/MW, it shall be modified as Rs. 0.146/MW.

SCHEDULE 1: FORMAT FOR PERFORMANCE BANK GUARANTEE (PBG)

(To be submitted Separately for each Project)

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

Reference:

Bank Guarantee No.:

Date:

In consideration of the _____ [*Insert name of the Bidder*] (hereinafter referred to as 'selected Battery Energy Storage System Developer') submitting the response to RfS inter alia for [*Insert title of the RfS*] of the capacity of ... MW/ MWh, at [*Insert name of the place*], 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 Bidder*] (which expression shall unless repugnant to the context or meaning thereof include its executors, administrators, successors and assignees) and selecting the Project of the Battery Energy Storage System Developer (BESSD) and, GRIDCO thereafter issuing Letter of Award No. _____ to _____ (*Insert Name of selected Battery Energy Storage System Developer*) as per terms of RfS and the same having been accepted by the selected BESSD resulting in a Battery Energy Storage Purchase Agreement (BESPA) to be entered into, for procurement of capacity [from selected Battery Energy Storage System 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 GRIDCO at Bhubaneswar, Odisha forthwith on demand in writing from GRIDCO 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 Battery Energy Storage System 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..... GRIDCO shall be entitled to invoke this Guarantee till

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

The Guarantor Bank shall make payment hereunder on first demand without restriction or conditions and notwithstanding any objection by _____ [*Insert name of the selected Battery Energy Storage System Developer/ Project Company as applicable*] and/ or
(Insert Project ID)

any other person. The Guarantor Bank shall not require GRIDCO to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against GRIDCO in respect of any payment made hereunder

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

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

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

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 GRIDCO serves upon us a written claim or demand. GRIDCO shall be entitled to invoke this Guarantee till _____ *[Insert a date which is at least 30 days beyond the expiry of the validity period on the basis of Clause No. 19 of this RfS].*

Signature: _____

Name: _____

Power of Attorney No.: _____

For

_____ *[Insert Name and Address of the Bank]* _____

Contact Details of the Bank:

E-mail ID of the Bank:

Banker's Stamp and Full Address.

Dated this ____ day of ____, 20__

Witness:

1.

Signature

Name and Address

2.

Signature

Name and Address

Notes:

1. The Stamp Paper should be in the name of the Executing Bank and of appropriate value.
2. The Performance Bank Guarantee shall be executed by an Indian branch of a Scheduled Commercial Bank listed on the website of Reserve Bank of India (RBI), as applicable as on the date of issuance of Bank Guarantee.

SCHEDULE 2: FORMAT OF INSURANCE SURETY BOND TOWARDS PERFORMANCE SECURITY

(To be stamped in accordance with stamp act of India)

Insurance Surety Bond No.:

Date:

To

GRIDCO Limited,

[Enter Address of GRIDCO]

Dear Sir,

In consideration of the GRIDCO Ltd. (Hereinafter referred to as the 'Owner' which expression shall unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) having awarded to M/s..... [Supplier's Name]..... with its Registered/Head Office at (Hereinafter referred to as the 'Supplier', which expression shall unless repugnant to the context or meaning thereof, include its successors administrators, executors and assigns), a Contract by issue of Owner's Purchase Order No..... dated. and the same having been unequivocally accepted by the Supplier, resulting into a Contract bearing No..... dated, valued at for and the Supplier having agreed to provide a Contract Performance Guarantee for the faithful performance of the entire Contract equivalent to(*).....% (percent) of the said value of the Contract to the Owner.

We[Name & Address of the Insurer] having its Head Office at (hereinafter referred to as the 'Insurer', which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns) do hereby guarantee and undertake to pay the Owner, on demand any and all amount payable by the Supplier to the extent of(*)..... as aforesaid at any time up to [days/month/year] without any condition, demur, reservation, contest, recourse or protest and/or without any reference to the Supplier.

Any such demand made by the Owner on the Insurer shall be conclusive and binding notwithstanding any difference between the Owner and the Supplier or any dispute pending before any Court, Tribunal, Arbitrator or any other authority. The Insurer undertakes not to revoke this Insurance Surety Bond during its currency and or any period extended under the contract, without prior consent of the Owner and further agrees that the guarantee herein contained shall be enforceable till the Owner discharges this guarantee.

The Owner shall have the fullest liberty, without affecting in any way the liability of the Insurer under this Insurance Surety Bond, from time to time to extend the performance of the Contract by the Supplier for the purpose of which, the Insurer shall be liable to extend the validity of the present Insurance Surety Bond without any demur, condition, protest and the Insurer shall at no point in time have an option of revoking the same, The Owner shall have the fullest liberty, without affecting this Insurance Surety Bond, to postpone from time to time the exercise of any powers vested in them or of any right which they might have against

the Supplier, and to exercise the same at any time in any manner, and either to enforce or to forbear to enforce any covenants, contained or implied, in the Contract between the Owner and the Supplier or any other course or remedy or security available to the Owner. The Insurer shall not be released of its obligations under these presents by any exercise by the Owner of its liberty with reference to the aforesaid or any of them or by reason of any other act or forbearance or other acts of omission or commission on the part of the Owner or any other indulgence shown by the Owner or by any other matter or thing whatsoever which under law would, but for this provision, have the effect of relieving the Insurer.

The Insurer also agrees and undertakes that the Owner at its option shall be entitled to enforce this Insurance Surety Bond against the Insurer as a Surety, in the first instance without proceeding against the Supplier and notwithstanding any security or other guarantee that the Owner may have in relation to the Supplier's liabilities.

The Guarantor Insurance Company hereby agrees and acknowledges that the GRIDCO shall have a right to invoke this Insurance Surety Bond in part or in full, as it may deem fit.

The Guarantor Insurance Company hereby expressly agrees that it shall not require any proof in addition to the written demand by GRIDCO Ltd., made in any format, raised at the **{Address of the Guarantor office at Bhubaneswar}** of the Guarantor Insurance Company, in order to make the said payment to GRIDCO Ltd.

This Insurance Surety Bond shall not be affected in any manner by reason of merger, amalgamation, restructuring or any other change in the constitution of the Guarantor Insurance Company.

This Insurance Surety Bond shall be interpreted in accordance with the laws of India and the courts at Bhubaneswar/Cuttack shall have exclusive jurisdiction.

Notwithstanding anything contained hereinabove our liability under this Insurance Surety Bond is restricted to(*)..... and it shall remain in force upto and including(@)..... and shall be extended from time to time for such period (not exceeding one year), as may be desired by M/s {Supplier's Name} on whose behalf this Insurance Surety Bond has been given.

We are liable to pay the guaranteed amount or any part thereof under this Insurance Surety Bond only if GRIDCO Ltd. serves upon us a written claim or demand.

Dated this day of 20..... at.....

.....
(Signature)

.....
(Name)

.....
(Official Address)
(Insert Project ID)

(Designation with Insurer stamp)

Authorized vide Power of Attorney No.

Date.....

WITNESS :

1.....

(Signature)

.....

(Name)

.....

(Official Address)

2.

(Signature)

.....

(Name)

.....

(Official Address)

Notes :

1. (*) This sum shall be as per Clause 19 of the RfS.
2. The Insurance Surety Bond shall be from an Insurer as per guidelines issued by Insurance Regulatory and Development Authority of India (IRDAI).
3. The Owner shall be the Creditor, the Supplier shall be the Principal debtor and the Insurance company/Insurer shall be the Surety in respect of the Insurance Surety Bond to be issued by the Insurer.
4. The Insurance Surety Bond should be on Non-Judicial stamp paper/e-stamp paper of appropriate value as per Stamp Act prevailing in the state(s) where the Insurance Surety Bond is submitted or is to be acted upon or the rate prevailing in State where the Insurance Surety Bond is executed, whichever is higher. The Stamp Paper/e-stamp paper shall be purchased in the name of Supplier/Insurer issuing the Insurance Surety Bond.
5. While getting the Insurance Surety Bond issued, the Supplier is required to ensure compliance to the points mentioned in Form of Bank Guarantee/ Insurance Surety Bond Verification Check List. Further, the Supplier is required to fill up this Form and enclose the same with the Insurance Surety Bond.

SCHEDULE 3: ILLUSTRATIONS

(Please refer Article 4.4 of this Agreement)

1. System Availability

Under a BSSPA between an off-taker 'X' and BESSD 'Y' for a capacity 'C', the Schedule and Actual Injection into/Drawl from the Grid from the Project, as per the DSM/ UI Reports published by the Regional RPC for a Sample day is shown below:

Date	Block	Drawl (from Grid) MUs (Charging) (X)	Injection (into Grid) MUs (Discharging) (Y)	Scheduled MUs (Z)	Time-block Availability, (TA) = (Xi/Zi) + (Yi/Zi)
01-May-22	1	0.088	0	0.088	1.00
01-May-22	2	0.088	0	0.088	1.00
01-May-22	3	0.075	0	0.088	0.85
01-May-22	4	0	0	0	NA
01-May-22	5	0	0	0	NA
01-May-22	6	0	0	0	NA
01-May-22	7	0	0	0	NA
01-May-22	8	0	0	0	NA
01-May-22	9	0	0	0	NA
01-May-22	10	0	0	0	NA
01-May-22	11	0	0	0	NA
01-May-22	12	0	0	0	NA
01-May-22	13	0	0	0	NA
01-May-22	14	0	0	0	NA
01-May-22	15	0	0	0	NA
01-May-22	16	0	0	0	NA
01-May-22	17	0	0	0	NA
01-May-22	18	0	0	0	NA
01-May-22	19	0	0	0	NA
01-May-22	20	0	0	0	NA
01-May-22	21	0	0	0	NA
01-May-22	22	0	0	0	NA
01-May-22	23	0	0	0	NA
01-May-22	24	0	0.075	0.075	1
01-May-22	25	0	0.075	0.075	1
01-May-22	26	0	0.075	0.075	1
01-May-22	27	0	0.075	0.075	1
01-May-22	28	0	0.075	0.075	1
01-May-22	29	0	0.075	0.075	1
01-May-22	30	0	0.06	0.075	0.8
01-May-22	31	0	0.05	0.075	0.67
01-May-22	32	0	0	0	NA
01-May-22	33	0	0	0	NA
01-May-22	34	0	0	0	NA
01-May-22	35	0	0	0	NA
01-May-22	36	0	0	0	NA
01-May-22	37	0	0	0	NA

01-May-22	38	0	0	0	NA
01-May-22	39	0	0	0	NA
01-May-22	40	0	0	0	NA
01-May-22	41	0	0	0	NA
01-May-22	42	0	0	0	NA
01-May-22	43	0	0	0	NA
01-May-22	44	0.088	0	0.088	1.00
01-May-22	45	0.08	0	0.088	0.91
01-May-22	46	0.08	0	0.088	0.91
01-May-22	47	0.088	0	0.088	1.00
01-May-22	48	0.088	0	0.088	1.00
01-May-22	49	0.088	0	0.088	1.00
01-May-22	50	0.088	0	0.088	1.00
01-May-22	51	0.088	0	0.088	1.00
01-May-22	52	0	0	0	NA
01-May-22	53	0	0	0	NA
01-May-22	54	0	0	0	NA
01-May-22	55	0	0	0	NA
01-May-22	56	0	0	0	NA
01-May-22	57	0	0	0	NA
01-May-22	58	0	0	0	NA
01-May-22	59	0	0	0	NA
01-May-22	60	0	0	0	NA
01-May-22	61	0	0	0	NA
01-May-22	62	0	0	0	NA
01-May-22	63	0	0	0	NA
01-May-22	64	0	0	0	NA
01-May-22	65	0	0	0	NA
01-May-22	66	0	0	0	NA
01-May-22	67	0	0	0	NA
01-May-22	68	0	0	0	NA
01-May-22	69	0	0	0	NA
01-May-22	70	0	0	0	NA
01-May-22	71	0	0	0	NA
01-May-22	72	0	0	0	NA
01-May-22	73	0	0	0	NA
01-May-22	74	0	0	0	NA
01-May-22	75	0	0	0	NA
01-May-22	76	0	0	0	NA
01-May-22	77	0	0	0	NA
01-May-22	78	0	0	0	NA
01-May-22	79	0	0	0	NA
01-May-22	80	0	0.075	0.075	1.00
01-May-22	81	0	0.075	0.075	1.00
01-May-22	82	0	0.075	0.075	1.00
01-May-22	83	0	0.075	0.075	1.00
01-May-22	84	0	0.075	0.075	1.00
01-May-22	85	0	0.075	0.075	1.00
01-May-22	86	0	0.075	0.075	1.00
01-May-22	87	0	0.07	0.075	0.93

01-May-22	88	0	0	0	NA
01-May-22	89	0	0	0	NA
01-May-22	90	0	0	0	NA
01-May-22	91	0	0	0	NA
01-May-22	92	0.088	0	0.088	1
01-May-22	93	0.088	0	0.088	1
01-May-22	94	0.088	0	0.088	1
01-May-22	95	0.088	0	0.088	1
01-May-22	96	0.088	0	0.088	1
Total		1.379	1.155		

i is the ith Timeblock in the day.

The System Availability for the day is calculated as the mean of **Column TA**, for all time-blocks where **Column Z is not zero**.

From the above table, Day's System Availability = 0.97

Similarly, the System availability shall be calculated for 35040 time-blocks (96*365) in a year, excluding time-blocks where Grid is unavailable or in case of Force Majeure.

Assuming the following parameters:

- Total Contract Capacity = 300 MW, **C**
- Quoted monthly Capacity charges = 5 lakhs/MW/month, **D**
- Annual system availability (as per procedure above) is calculated to be 0.93, **B**
- n = 12

Liquidated Damages on account of shortage in annual system Availability, as calculated from formula provided in Clause 8.2 of the RfS:

$$\text{Liquidated damages} = (A - B) \times C \times D \times n \times 2$$

$$= (0.95 - 0.93) \times 300 \times 5 \times 12 \times 2$$

$$= \text{Rs. 720 lakhs}$$

2. System Round Trip Efficiency

The present illustration is for calculating the Daily System Efficiency as demonstration only. The same methodology shall be used for calculation of monthly system efficiency as per Clause 8.1.e.iii of the RfS.

$$\text{System Efficiency} = \frac{\text{Total of Column (Y)}}{\text{Total of Column (X)}} = \frac{1.155}{1.379} = 0.837 \sim 0.84 \text{ (rounded off to 2 decimal places).}$$

Assuming:

- monthly System Efficiency = 0.84,
- Total Monthly Drawl from Grid (Charging Power) = 41.1 MUs

Liquidated Damages is calculated @ Rs. 2 for excess loss of energy considering expected System Efficiency to be 85%

Excess conversion losses = $(0.85-0.84) \times$ Total Drawl from the grid in the month (i.e. Charging Energy)

Liquidated Damages for the month = Rs. $0.01 \times 41.1 \times 2$
= Rs. 0.822 Millions
= Rs. **8.22 lakhs**

SCHEDULE 4: COMMISSIONING PROCEDURE AND INDICATIVE SINGLE LINE DIAGRAM (SLD)