

REQUEST FOR SELECTION (RfS)

FOR

**SETTING UP OF 255 MW WIND-SOLAR HYBRID POWER PROJECTS WITH GREENSHOE OPTION OF
ADDITIONAL 255 MW WIND-SOLAR HYBRID POWER PROJECTS**

RfS No. Tata Power-DDL/RE Hybrid/2022

Dated: 31.08.2022

ISSUED BY

TATA POWER DELHI DISTRIBUTION LIMITED

Power Management Group

TATA POWER DELHI DISTRIBUTION LIMITED, CENNET SCADA BUILDING, 1ST FLOOR
NEAR PP-3 GRID, PITAMPURA, NEW DELHI -110034

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Tender Search Code (TSC) –TPDDL-2022-TN000001

DISCLAIMER:

1. Though adequate care has been taken while preparing the RfS document, the Bidders shall satisfy themselves that the document is complete in all respects. Intimation of any discrepancy shall be given to this office immediately. If no intimation is received from any Bidder within **seven (7) days from the date of notification of RfS/ Issue of the RfS documents**, it shall be considered that the RfS document is complete in all respects and has been received by the Bidder.
2. Tata Power Delhi Distribution Limited reserves the right to modify, amend or supplement this RfS document including the draft PPA.
3. While this RfS has been prepared in good faith, neither Tata Power Delhi Distribution Limited nor their employees or advisors make any representation or warranty, express or implied, or accept any responsibility or liability, whatsoever, in respect of any statements or omissions herein, or the accuracy, completeness or reliability of information, and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability or completeness of this RfS, even if any loss or damage is caused by any act or omission on their part.

Place: New Delhi

Date: 31.08.2022

Bid Information Sheet

Document Description	RfS document for Setting up of 255 MW Wind-Solar Hybrid Power Projects with greenshoe option of additional 255 MW Wind-Solar Hybrid Power Projects in India.
RfS No.& Date	Tata Power-DDL/RE Hybrid/2022 Dt: 31.08.2022
Broad Scope	Setting up of Wind-Solar Hybrid Power Projects in India on “Build Own Operate” basis and selling the Hybrid Power to TPDDL
Date of commencement of downloading of RfS document	31.08.2022
Pre-bid Conference /Clarification Meeting	As per the NIT on Bharat-Electronic Tender e-Tendering Portal
Last date & Time for a) Online Submission of Response to RfS and b) Submission of all documents as per Clause 3.25 A, physically at TPDDL office, New Delhi	As per the NIT on Bharat-Electronic Tender e-Tendering Portal
Online Bid Opening (Techno- Commercial)	As per the NIT on Bharat-Electronic Tender e-Tendering Portal
Financial Bid Opening	Prior to start of Reverse Auction
Reverse Auction	Will be informed to eligible bidders
Date and Time for start of Reverse Auction	To be intimated by email through Bharat-Electronic Tender e-Tendering Portal
Cost of RfS Document (non-refundable)	Rs. 29,500/- (inclusive of GST), to be submitted either through NEFT/RTGS transfer in the account of TPDDL, or in the form of DD/Pay Order, along with the response to RfS in favour of “Tata Power Delhi Distribution Limited”, payable at New Delhi
EMD	Earnest Money @ Rs. 5 Lakh / MW / Project is to be submitted in the form of Bank Guarantee along with the Response to RfS.

<p>Name, Designation, Address and other details (For Submission of Response to RfS)</p>	<p>Mr. Lalit Kumar Wasan, HOD (Power Management Group & BESS) TATA Power Delhi Distribution Limited CENNET SCADA Building, 1st Floor Near PP-3 Grid, Pitampura, New Delhi -110034 E-mail: lalit.wasan@tatapower-ddl.com <u>Land line: 011-66050720</u></p>
<p>Details of persons to be contacted in case of any assistance required</p>	<p>Mr. Sandeep Kumar, AGM (Power Management Group) Mob: - 9971174097 Email: - sandeep.k@tatapower-ddl.com <u>Land line: 011-66050652</u></p>
<p><u>Important Note:</u> Prospective Project Developers are requested to remain updated for any notices/amendments/clarifications etc. to the RfS document through website of “Bharat-Electronic Tender e-Tendering”.</p> <p>No separate notifications will be issued for such notices/amendments/clarifications etc. in the print media or individually. Intimation regarding notification/amendments/clarifications etc. shall be updated only on “Bharat-Electronic Tender e-Tendering”.</p>	

Section 1

Introduction, Background & Scheme Details

1.1. INTRODUCTION

- 1.1.1. Tata Power Delhi Distribution Limited (“**TPDDL**” or “**Tata Power-DDL**”) is a joint venture of Tata Power and Govt. of NCT of Delhi. M/s TATA Power Delhi Distribution Limited is a company incorporated under the Companies Act, 1956 and engaged in the business of distribution of electricity within its licensed area in NCT of Delhi.
- 1.1.2. MNRE has issued “Guidelines for Tariff Based Competitive Bidding Process for procurement of power from Grid Connected Wind Solar Hybrid Projects – Reg.” vide F. No. 238/78/2017-Wind dated 14.10.2020, under the Wind Solar Hybrid Policy issued by MNRE on 14.05.2018 (along with subsequent amendments and clarifications). The Guidelines provide a framework for promotion of large grid connected wind-solar PV hybrid systems for optimal and efficient utilization of transmission infrastructure and land, reducing the variability in renewable power generation and achieving better grid stability. The Guidelines dated 14.10.2020 have been subsequently amended by amendments dated 23.07.2021 and 09.03.2022. This Request for Selection (“**RfS**”) document has been prepared in line with the guidelines dated 14.10.2020 and as amended on 23.07.2021 and 09.03.2022 (“**Guidelines**” or “**Scheme**”) and pursuant to the deviations approved by the Hon’ble Delhi Electricity Regulatory Commission by its order dated 27.07.2022 in Petition No. 50/2021 (“**DERC Order**”).
- 1.1.3. As part of the above scheme, Tata Power-DDL hereby invites proposals for setting up of Wind- Solar Hybrid Power Projects in India, on “Build Own Operate” basis for an aggregate capacity of 255 MW with a greenshoe option of additional 255 MW of Wins-Solar Hybrid Power Projects. Tata Power-DDL shall enter into Power Purchase Agreement (“**PPA**”) with the successful bidders for 25 years from the Scheduled Commissioning Date (“**SCD**”) or from the date of full/ mutually agreed commissioning date of the Projects, whichever is earlier for the new projects.
- 1.1.4. Existing projects having untied capacity can also participate in the bid process in line with the conditions specified in the RfS & PPA. However, in such case the bidder should ensure that the minimum remaining useful life of the project is between 20 years to 25 years on the date of submission of bid. Signing of PPA for existing projects will be done accordingly based on the terms, conditions and provisions of the RfS.

1.2. BACKGROUND

- 1.2.1. With the objective to provide a framework for promotion of large grid connected wind solar PV hybrid system for optimal and efficient utilization of transmission infrastructure and land, reducing the variability in renewable power generation and achieving better grid stability, MNRE had recently issued the Wind-Solar Hybrid Policy on 14.05.2018 (along with its amendment on 11.10.2018) and Guidelines dated 14.10.2020 which were amended on 23.07.2021 and 09.03.2022.
- 1.2.2. The RfS provides for a transparent methodology for interstate sale of wind-solar hybrid power at a price determined through competitive bidding and e-reverse auction process.

1.3. OVERVIEW OF THE RFS FOR 255 MW WIND-SOLAR HYBRID POWER PROJECTS WITH A GREENSHOE OPTION OF ADDITIONAL 255 MW WIND-SOLAR HYBRID POWER PROJECTS

- 1.3.1. Hybrid Project Developers (“HPDs”) selected by Tata Power-DDL based on this RfS, shall set up Wind-Solar Hybrid Power Projects on Build-Own-Operate (“BOO”) basis in accordance with the provisions of this RfS document and the standard PPA. The standard PPA format has been enclosed and can be downloaded from Bharat-Electronic Tender e-Tendering Portal”.
- 1.3.2. TPDDL shall enter into PPA with the HPD’s for a period of 25 years from the date as per the provisions of PPA, as per the tariff discovered through e-bidding followed by e-Reverse Auction under this RfS. Remaining details regarding existing projects should be as per **Clause 1.1.4 of this RFS**. The tariff so discovered shall be inclusive of all statutory taxes, duties, levies, cess etc. if applicable as on the last date of bid submission. It is clarified that any change in the rates of any Taxes after the last day of submission of the bid, including any duties and cess or introduction of any new tax made applicable for setting up the power project and supply of power from the Hybrid Power project by the HPD which have a direct effect on the Project, shall only be considered as change in law after approval of Appropriate Commission. However, Change in Law shall not include (i) any change in taxes on corporate income; or (ii) any change in any withholding tax on income or dividends distributed to the shareholders of the HPD; or (iii) any imposition of basic customs duty in terms of the MNRE Office Memorandum bearing reference number No. 283/3/2018 – GRID SOLAR dated 09.03.2021.
- 1.3.3. The Bidders will be free to avail fiscal incentives like Accelerated Depreciation, Concessional Customs and Excise Duties, Tax Holidays etc. as available for such Projects as per prevailing conditions. The same will not have any bearing on comparison of bids for selection. As equal opportunity is being provided to all bidders at the time of tendering itself, it is up to the bidders to avail various tax and other benefits. No claim shall arise on TPDDL for any liability if bidders are not able to avail fiscal incentives and this will not have any bearing on the applicable tariff.
- 1.3.4. Under the RfS, the minimum bid capacity shall be 50 MW with at least 50 MW of project capacity being proposed at each Project Site, and the maximum bid capacity under the RfS shall be 255 MW with a greenshoe option of additional 255 MW, subject to the condition that the rated power capacity of one resource (wind or solar) is at least 33% of the total contracted power capacity.
- Tata Power-DDL requires 85 MW solar and 170 MW wind power out of total 255 MW project capacity with greenshoe option of additional 255 MW project capacity on similar lines. Accordingly, the bidder should quote quantum in the ratio 1:2 (solar: wind).
- Bidders shall submit their bid by offering a single tariff for all the Projects quoted for, which shall be applicable for the term of the PPA.
- 1.3.5. Tata Power-DDL may/shall sign PPAs with the HPDs at the respective tariffs discovered after e- reverse auction. The duration of the PPAs shall be 25 years from the SCD or from the date of full/ mutually agreed commissioning date of the Projects, whichever is earlier.

1.4. SELECTION OF TECHNOLOGY & ELIGIBLE PROJECTS

- 1.4.1. The Projects to be selected for aggregate capacity of 255 MW with a greenshoe option of additional 255 MW, provide for deployment of Wind- Solar Hybrid Power Technology. However, the selection of projects would be technology agnostic.
- 1.4.2. Projects under construction, projects which are not yet commissioned and projects already commissioned but do not have any long-term PPA with any agency and selling power on short term or merchant plant basis will also be considered, in case these projects are not already accepted under any other Central or State Schemes and do not have any obligations towards existing buyers. Enhancement and augmentation of already commissioned Projects, irrespective of their capacities will also be considered as eligible Project under this scheme.

Section 2

DEFINITIONS

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

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

"Affiliate" shall mean a company that, directly or indirectly,

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

"Appropriate Commission" shall mean Central Electricity Regulatory Commission / the Delhi Electricity Regulatory Commission as applicable;

"Bid" or "Proposal" shall mean the documents submitted by the Bidder towards meeting the techno-commercial and financial qualifying requirements, along with the price bid submitted by the Bidder as part of its response to the RfS issued by Tata Power-DDL;

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

"Bid Capacity" means aggregate project capacity of all wind-solar hybrid projects proposed by a bidder.

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

"Buying Entity" means Tata Power-DDL that requires wind-solar hybrid power to fulfil its RPO under respective RPO regulations.

"Capacity Utilization Factor or CUF" shall have the same meaning as provided in CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2020 as amended from time to time.

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

It may be noted that in the above illustration, the capacity 'Y' MW shall refer to the Contracted Capacity in terms of the PPA;

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

For bidders incorporated in countries other than India, "Chartered Accountant" shall mean a person or a firm practicing in the respective country and designated/registered under the corresponding

Statutes/laws of the respective country;

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

“Commercial Operation Date” or “COD” shall mean the date as defined in Clause 3.18;

“Contracted Capacity” shall mean the AC capacity in MW contracted with Tata Power-DDL for supply by the HPD to Tata Power-DDL at the Delivery Point from the Project, and shall be equal to the Project Capacity as defined;

“Contract Year” shall mean the period beginning from the Effective Date of the PPA and ending on the immediately succeeding March 31 and thereafter each period of 12 months beginning on April 1 and ending on March 31 provided that:

- (i) in the financial year in which the Scheduled Commissioning Date would occur, the Contract Year shall end on the 31st March of the year in which COD has been attained 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 the PPA.;

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

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

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

“Day” shall mean calendar day;

“Delivery point” shall mean the point at which energy is delivered at Tata Power-DDL periphery; (i.e. the interconnection point of DTL network with Tata Power-DDL network). All the transmission charges and losses from generator ex-bus till the delivery point shall be to the account of the successful bidder/developer. Taking all necessary consents/arrangements for delivering the power at TPDDL periphery shall remain entirely with the successful bidder. Please note that all the bidders are required to quote the tariff (inclusive of all charges, losses, taxes, royalty, cess, duties and any other involved costs whatsoever) at the delivery point. All-inclusive tariff at delivery point shall be used for the purpose of further bid evaluation.

“Effective Date” shall mean the date of signing of PPA;

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

“Evaluation Committee” shall mean a committee constituted for the purpose of bid evaluation having at least 3 members, including at least one member with expertise in financial matters/bid evaluation;

“Financial Closure or Project Financing Arrangements” means arrangement of necessary funds by the Project Developer towards 100% Project Cost either by way of commitment of funds by the company from its internal resources and/or tie up of funds through a bank / financial institution by way of sanction of a loan *to be completed within 12 months of the signing of the PPA.*

“Guidelines” or “Scheme” means the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects as issued by the Ministry of New & Renewable Energy on 14.10.2020, and as amended on 23.07.2021 and 09.03.2022;

“Group Company” of a Company means

- (i) a Company which, directly or indirectly, holds 10% (ten percent) or more of the share capital of the company, or
- (ii) a company in which the company, directly or indirectly, holds 10% (ten percent) or more of the share capital of such company, or
- (iii) a company in which the company, directly or indirectly, has the power to direct or cause to be directed the management and policies of such company whether through the ownership of securities or agreement or any other arrangement or otherwise, or
- (iv) a company which, directly or indirectly, has the power to direct or cause to be directed the management and policies of the Company whether through the ownership of securities or agreement or any other arrangement or otherwise, or
- (v) a company which is under common control with the company, and control means ownership by one company of at least 10% (ten percent) of the share capital of the other company or power to direct or cause to be directed the management and policies of such company whether through the ownership of securities or agreement or any other arrangement or otherwise.

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

Interconnection Point - shall mean the point of the CTU/STU/Discom where the project gets connected with. Metering shall be done at this interconnection point where the power is injected into the CTU/STU/Discom network. For interconnection with grid and metering, the HPD shall abide by the relevant and applicable regulations, Grid Code notified by the CERC or and Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended and revised from time to time, or orders passed thereunder by the Appropriate Commission or CEA.

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

“InSTS” or **“STS”** means Intra-State Transmission System.

“ISTS” means Inter-State Transmission System.

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

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

“Letter of Award” or “LOA” shall mean the letter issued by Tata Power Delhi Distribution Limited (TPDDL) to the successful Bidder for award of the Project;

“Limited Liability Partnership” or “LLP” shall mean a limited liability partnership governed by Limited Liability Partnership Act 2008 or as amended;

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

“Month” shall mean calendar month;

“Net-Worth” means the Net-Worth as defined section 2 of the company Act, 2013;

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

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

“Pooling Substation/Pooling Point” means a point where more than one project may connect to a common transmission system. Multiple projects can be connected to a pooling substation from where common transmission system shall be constructed and maintained by the HPD(s) to get connected to the ISTS/STS/Discom substation. Further, the metering of the pooled power shall be done at the injection point, i.e. the ISTS/STS/Discom substation. However, the voltage level of transmission system of individual projects up to the pooling substation may be at 33 kV and above. Sub-meters shall be installed at the pooling substation for metering and forecasting and scheduling of individual projects. The losses in the common transmission system up to the injection point shall be apportioned to the individual Projects for the purpose of billing. In such case, it shall be responsibility of the HPD to obtain and furnish the meter reading jointly by the HPD and any competent authority (State Government or Central Government) (if applicable). The bidder shall provide Solar and Non Solar schedule separately to TPDDL for the purpose of ascertaining the Renewable power from Solar and Non Solar components of the project.

“PGCIL” means Power Grid Corporation of India Limited;

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

“Project” shall mean the Hybrid Power Project, comprising Solar PV and Wind Power generation facilities , having a single point or separate points of injection into the grid at Interconnection/ Delivery/ Metering Point, or in case of sharing of transmission lines, by separate injection at Pooling Point and having control systems and metering. The Project shall include all units/ modules and auxiliaries and associated facilities, bay(s) for transmission system in the switchyard, dedicated transmission line up to the interconnection/Metering Point and all the other assets, buildings/structures, equipment, plant and machinery, facilities and related assets required for the efficient and economic operation of the power generation facility, whether completed or at any stage of development and construction or intended to be developed and constructed for the purpose of supply of power to TPDDL;

“Project Capacity” means the maximum AC capacity at the point of delivery on which the Power Purchase Agreement shall be signed;

“Project Commissioning”: The Project will be considered as commissioned if all equipment as per rated project capacity has been installed and energy has flown into grid, in line with the Commissioning procedures defined in the RfS document/PPA;

“Project Developer” or “Developer” or “Wind-solar Hybrid Project Developer” or “HPD” means the Bidding Company or a Bidding Consortium participating in the bid and having been selected and allocated a project capacity by Tata Power-DDL (through a competitive bidding process), including the SPV formed by the selected bidder/ consortium for the purpose of setting up of project and signing of PPA with Tata Power-DDL;

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

“RfS document” shall mean the bidding documents issued by Tata Power-DDL vide RfS no Tata Power-DDL/RE Hybrid/2022 dated 31.08.2022 including all attachments, clarifications and amendments thereof;

“Sub-pooling Substation” shall mean the intermediate pooling point where power from the Solar and Wind Project components (as applicable) of the Hybrid Power Project is injected into and from where the hybrid power is evacuated through a single transmission line and injected into the Interconnection Point;

“Scheduled Commissioning Date” or “SCD” or “SCOD” shall be the date as on 24 (twenty-four) months from the Effective Date of the PPA.

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

“SOLAR PV PROJECT” shall mean the Solar Photo Voltaic Power Project that uses sunlight for direct conversion into electricity through Photo Voltaic Technology;

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

“TPDDL” / “Tata Power-DDL” shall mean Tata Power Delhi Distribution Limited;

“TOE” shall mean Tender Opening Event;

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

“Week” shall mean calendar week;

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

“Wind Solar Hybrid Power Project” means the wind-solar hybrid power project where the rated power capacity of one resource is at least 33% of the total contracted power capacity.

Section 3

BID INFORMATION AND INSTRUCTION TO BIDDERS

3.1. OBTAINING RFS DOCUMENT, COST OF DOCUMENTS

- 3.1.1. The RfS document can be downloaded from the website of “Bharat-Electronic Tender e-Tendering Portal”. A link of the same is also available at www.tatapower-ddl.com.

Note: - Interested bidders have to download the official copy of RfS & other documents after logging on to the “Bharat-Electronic Tender e-Tendering Portal” by using the Login ID & Password provided by Bharat-Electronic Tender e-Tendering Portal during registration (Refer Annexure – C). The bidder shall only be eligible to submit / upload the bid document after logging on to the Bharat-Electronic Tender e-Tendering portal and downloading the official copy of RfS.

- 3.1.2. Prospective Bidders interested to participate in the bidding process are required to submit their Project proposals in response to this RfS document. A bidding Company/ Consortium will be eligible to participate in the bidding process only on submission of entire financial amounts as per the Bid Information Sheet. In case the Bidder chooses to submit the amounts pertaining to Cost of RfS document through NEFT/RTGS (electronic transfer), the Bidder shall submit the transaction receipt instead of the corresponding DDs, as part of the offline bid submission.

The bank details of TPDDL are as follows :-

AXIS Bank Ltd.,
Corporate Banking Branch,
Account no: 915030039791179,
IFSC CODE: UTIB0001609
Beneficiary Name: Tata Power Delhi Distribution Limited.

The bids submitted without cost of the RfS document and/or Bank Guarantee against EMD (including partial submission of either of the respective amounts), may be liable for rejection by TPDDL.

3.2. TOTAL CAPACITY OFFERED, PROJECT SCOPE AND TECHNOLOGY SELECTION

Selection of Grid-connected Wind-Solar Hybrid Power Projects for total capacity of 255 MW with a greenshoe option of additional 255 MW will be carried out through e-bidding followed by e-Reverse Auction process, based on the tariff of sale of electricity quoted by the Bidders in INR/kWh. For the sake of clarity, it may be noted that out of the total requirement of 255 MW, TPDDL requires 85 MW of solar power & 170 MW wind power from the project. Additionally, TPDDL seeks to exercise a greenshoe option of additional 255 MW on similar lines. Accordingly, the bidder should quote quantum in the ratio 1:2 (solar: wind). The components/capacity of the project may be planned accordingly.

Capacity of each Project:

Following points are to be noted in this regard:

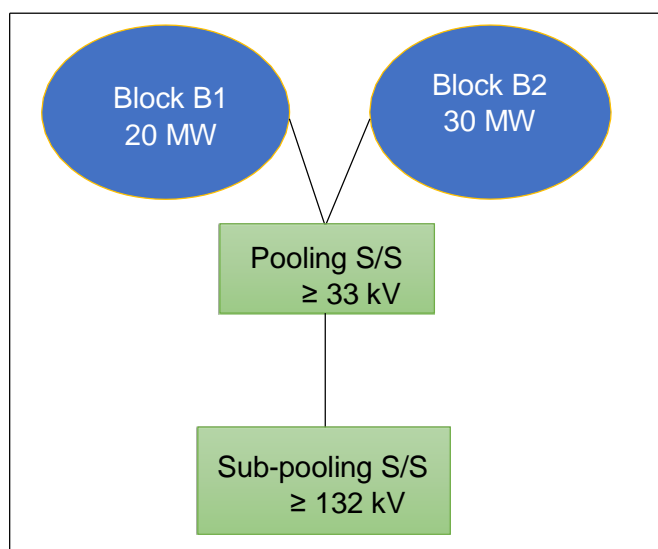
- I. The minimum Project size of a single Hybrid Power Project shall be 50 MW to be interconnected at a single interconnection point.
- II. Under this RfS, a Hybrid Power Project shall mean a Project comprising two ‘components’ - one Solar and one Wind Power Project. The rated installed Project capacity of either

of the components shall be at least 33% of the total contracted installed capacity. For eg, if a single Hybrid Project Capacity comprises 170 MW of rated installed Wind Power capacity, the minimum rated installed project capacity for the corresponding Solar Project component shall be 85 MW.

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

One of the possible configurations of a solar Project component having separate locations for each block, is illustrated below, for elaboration:

SOLAR PROJECT COMPONENT CAPACITY: 50 MW



- III. The HPDs shall demonstrate the rated capacities of each component separately at the input side of the Sub-Pooling Substation, in line with the Commissioning procedure as per the applicable Regulations/Guidelines.
- IV. It is hereby clarified that in the event the actual installed capacity of each source is different from that declared in the PPA, TPDDL shall have the right to choose the proportion of each source based on actual ratios of capacities installed of each source, and not the capacity indicated in the PPA.

Project Scope and Technology Selection:

Under this scheme, the HPD shall set up Wind-Solar Hybrid Power Project(s) including the transmission network up to the Interconnection Point, at its own cost and in accordance to the provisions of this RfS document. All approvals, permits and clearances required for setting up of the Project (along with connectivity and Long Term Open Access) including those required from State Government and local bodies shall be in the scope of the HPD. The Projects to be selected under this scheme provide for deployment of wind-solar hybrid power technology. However, the selection of Projects would be technology agnostic. Bay construction at ISTS substation shall not be under the scope of the HPD, as per the existing provisions of CERC.

3.3. PROJECT LOCATION

The Projects shall be located at the locations chosen by the Bidder/HPD at its own discretion and cost, risk and responsibility.

3.4. MAXIMUM ELIGIBILITY FOR PROJECT CAPACITY ALLOCATION FOR A BIDDER

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

- 3.4.1. Under this RfS, A bidder including its Parent, Affiliate or Ultimate Parent or any Group Company can submit a single bid application for a **capacity of 255 MW with a greenshoe option of 255 MW capacity**.
- 3.4.2. For each Project, the minimum Project capacity shall be 50 MW and the maximum capacity shall be 255 MW with a greenshoe option of additional 255 MW. The total capacity of wind-solar hybrid power projects to be allocated to a bidder including its Parent, Affiliate or Ultimate Parent or any Group Company shall be limited to 255 MW with a greenshoe option of additional 255 MW.
- 3.4.3. Multiple bids from same company including its Parent/ Ultimate Parent /Affiliates/Group Companies shall make all the bids submitted by the group invalid.
- 3.4.4. The evaluation of bids shall be carried out as described in Section 4. The methodology of allocation of projects is elaborated in Section 4.
- 3.4.5. In case the Bidder wishes to set up more than one Project, then the Projects would need to be physically identifiable with separate injection points, control systems and metering arrangement.

3.5. QUALIFICATION REQUIREMENTS

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

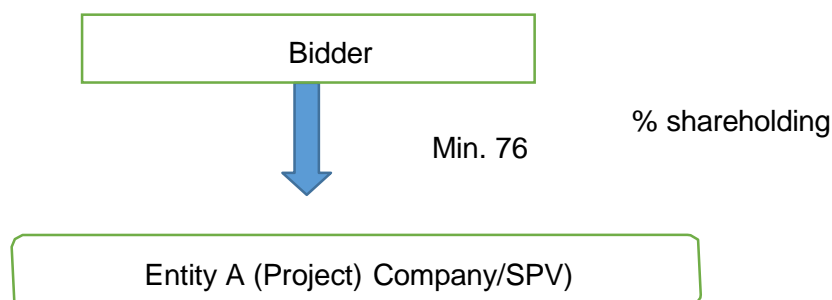
A. General Eligibility Criteria

- 3.5.1. Company as defined
- 3.5.2. Bidding Consortium with one of the Companies as Lead member. Consortium shortlisted and selected based on this RfS has to necessarily form a Project Company and get it registered under the Companies Act, 2013, before signing of PPA, keeping the original shareholding of the Bidding Consortium unchanged. In case applications for multiple Projects have been made by a Consortium, separate Project Companies can be formed for each Project. For the avoidance of doubt, it is hereby clarified that the shareholding pattern of the Project Company shall be the identical to the shareholding pattern of the

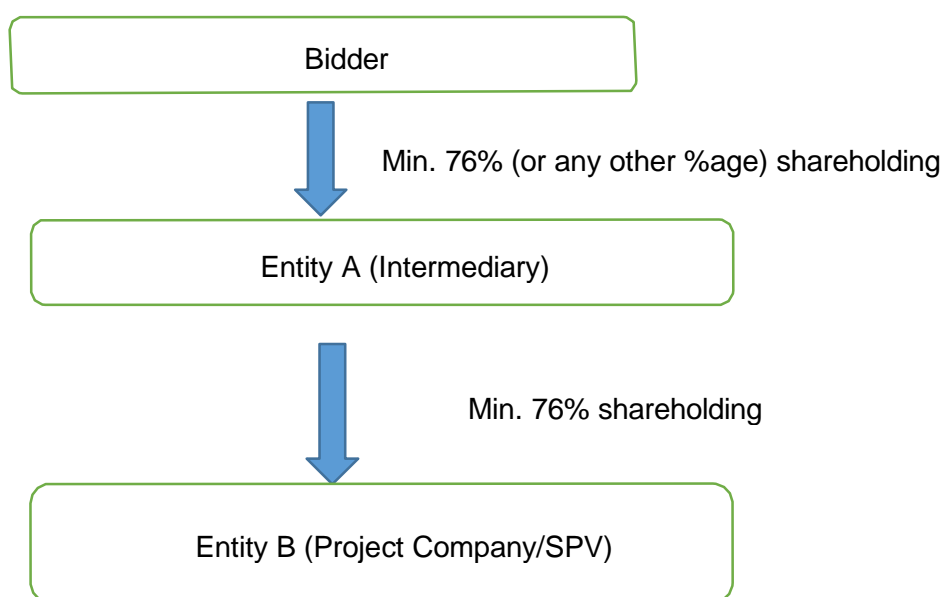
Consortium as indicated in the Consortium Agreement (Format 6.5).

- 3.5.3. A foreign company can also participate on standalone basis or as a member of consortium at the RfS stage. In case of foreign company participating on standalone basis and its selection as successful Bidder, it has to form a “Special Purpose Vehicle” (SPV), i.e. an Indian Company registered under the Companies Act, 2013 as its subsidiary Company, with at least 76% shareholding in the SPV, before signing of PPA. In case a Foreign Company is selected as the successful Bidder, it shall comply with all the laws and provisions related to Foreign Direct Investment in India. In case of a foreign company participating as a member of consortium, the clause 3.5 A. (3.5.7) shall be applicable.
- 3.5.4. Not used
- 3.5.5. A Bidder which has been selected as successful Bidder based on this RfS can also execute the Project through a Special Purpose Vehicle (SPV) i.e. a Project company especially incorporated/acquired as a subsidiary Company of the successful bidder for setting up of the Project, with at least 76% shareholding in the SPV and the remaining 24% shareholding shall be a Group Company, which has to be registered under the Indian Companies Act, 2013, before signing of PPA. Multiple SPVs may also be utilized to execute more than one Project.
- 3.5.6. Any consortium, if selected as successful Bidder for the purpose of supply of power to TPDDL, shall incorporate a Project company with equity participation by the Members in line with consortium agreement (to be submitted along with the response to RfS) before signing of PPA with TPDDL, i.e. the Project Company incorporated shall have the same shareholding pattern as that indicated in the Consortium Agreement given at the time of submission of response to RfS. This shall not change till the signing of PPA and the Controlling Shareholding (held by the Lead Member holding not less than 51% of the voting rights and paid up share capital) shall not change from submission deadline of response to RfS up to one year after the COD of the Project. Transfer of controlling shareholding within the same group of companies will however be allowed after COD with the written permission of TPDDL, subject to the condition that, the management control remains within the same group of companies.
- 3.5.7. No successful bidder shall transfer 50% or more of its shareholding to any other Person from the submission deadline of response to RfS up to one year after the COD of the Project and thereafter pursuant to TDPPL's written permission. Notwithstanding the forgoing, a successful bidder may transfer the controlling shareholding to a Group Company after COD with the written permission of TPDDL, subject to the condition that, the management control remains within the same group of companies.
- 3.5.8. The Bidder or any of its Affiliates should not be a wilful defaulter to any lender, and that there is no major litigation pending or threatened against the Bidder or any of its Affiliates which are of a nature that could cast a doubt on the ability or the suitability of the Bidder to undertake the Project. The Bidder shall submit an undertaking to this effect.
- 3.5.9. For avoidance of doubt, it is clarified that the fully owned subsidiary Company as mentioned in Clauses 3.5 A (3.5.3 and 3.5.6) above should be an immediate subsidiary of the bidder, without any intermediaries involved. The following illustrations are provided to clarify the same:

Scenario 1:



Scenario-2:



As per the RfS conditions, only Scenario 1 is permissible in case of projects being implemented by SPVs.

B. Technical Criteria of Projects----

- i. Under the provisions of this RfS, it is proposed to promote only commercially established and operational technologies to minimize the technology risk and to achieve timely commissioning of the Projects. The Bidder shall provide information about the solar PV panels and wind turbines proposed to be installed in the project at the time of Financial Closure.

In order to ensure only quality systems are installed, only type-certified wind turbine models listed in Revised List of Models and Manufacturers (RLMM) issued by MNRE as updated as on the date of the Commissioning of the Projects will be allowed for deployment under the RfS. The wind power projects will be developed as per Guidelines issued by MNRE on Development of Onshore Wind Power Projects. For solar modules and balance of systems, the technical guidelines issued by MNRE from time to time for grid connected Solar PV systems and the technical guidelines prevalent at the time of bidding of the Project, will be followed. However, the bidder may approach TPDDL, in the event there are any effective technical guidelines which may be considered.

- ii. The bidders are advised to take cognizance of the O.M. dated 09.03.2021 issued by MNRE, on the RfS Document for 255 MW Wind-Solar Hybrid Power Project in India

subject of “Imposition of Basic Customs Duty (BCD) on Solar Cells & Modules/Panels”, while preparation of their response to this RfS. The above O.M. and its associated orders issued by the Ministry of Finance will be applicable on this tender and changes in taxes/duties on account of the above, will not be considered under “Change in Law” under the PPA. The Projects shall also comply with the criteria for power generation detailed in Clause 3.9.

- iii. Further, the cells and modules used in the Project shall be sourced only from the models and manufacturers included in the “Approved List of Models and Manufacturers” as published by MNRE and updated as on the date of commissioning of the Project.

C. Financial Eligibility Criteria

I. Net-Worth:

- a. The Net Worth of the Bidder should be atleast 20% of the estimated project cost, as on the last date of previous Financial Year 2021-22, or as on the date at least 7 days prior to the due date of bid submission.
- b. The Net Worth to be considered for the above purpose will be the cumulative net-worth of the Bidding Company or Consortium together with the Net Worth of those Affiliates of the Bidder(s) that undertake to contribute the required equity funding and performance bank guarantees in case the Bidder(s) fail to do so in accordance with the RfS.
- c. Net Worth to be considered for this clause shall be the total Net Worth as calculated in accordance with the Companies Act, 2013 and any further amendments thereto.
- d. Bidders shall have to furnish a Certificate from Chartered Accountants, certifying the Net worth as per the latest available audited financial statements.
- e. Pursuant to evaluation of Net Worth Criteria as part of technical bid, if it is found by Tata Power- DDL that the Bidder is eligible for lesser quantum than the quantum for which bid has been submitted, then the Bidder shall be qualified for such lesser quantum, provided that such quantum is not less than minimum bid capacity i.e. as specified in the Clause 3.2.

II. Liquidity:

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

- a. A minimum annual turnover of **Rs. 75 lakhs/MW** of the quoted capacity provided in the latest financial statements or the provisional financial statements as on the date at least 7 days prior to the due date of bid submission. It is hereby clarified that “Other Income” as indicated in the annual accounts of the Bidder shall not be considered for arriving at the annual turnover.
- b. Internal resource generation capability, in the form of Profit Before Depreciation Interest and Taxes (PBDIT) for a minimum amount of **Rs. 15 Lakhs/MW** of the quoted capacity, provided in the latest financial statements or the provisional financial statements as on the date at least 7 days prior to the due date of bid submission.
- c. In-principle sanction letter from the lending institutions/banks of the Bidder, committing a Line of Credit for a minimum amount of **Rs. 18.75 Lakhs/MW** of the quoted capacity, towards meeting the working capital requirement of the project quoted under this RfS. Such letter can also be obtained by the Affiliate(s) of the Bidder.

- III. The Bidder may seek qualification on the basis of financial capability of its Affiliate(s) for the purpose of meeting the qualification requirements as per (I) and (II) above. In case of the Bidder being a Bidding Consortium, any Member may seek qualification on the basis of financial capability of its Affiliate(s). In all the above cases, the Bidder shall be required to submit Board Resolutions from the respective Affiliate(s), undertaking to contribute the required equity funding in case the Bidder(s) fail to do so in accordance with the RfS. In case of non-availability of the Board Resolution as required above, a letter from the CEO/Managing Director of the respective Affiliate(s), undertaking the above, shall be required to be submitted and the requisite Board Resolution from the Affiliate(s) shall be required to be submitted prior to signing of PPA.
- IV. For the purposes of meeting financial requirements, only latest unconsolidated audited annual accounts shall be used. However, audited consolidated annual accounts of the Bidder may be used for the purpose of financial requirements provided the Bidder has at least fifty-one (51%) equity in each Company whose accounts are merged in the audited consolidated account and provided further that the financial capability of such Companies (of which accounts are being merged in the consolidated accounts) shall not be considered again for the purpose of evaluation of any other response to this RfS.
- V. A Company/Consortium would be required to submit annual audited accounts for the last financial year, i.e. 2021-22 along with a net worth, annual turnover and PBDIT certificate (as applicable) from a practicing Chartered Accountant/Statutory Auditor; or in case of the bidder meeting the criteria on the date at least 7 days prior to due date of bid submission, provisional audited accounts as on the date at least 7 days prior to the due date of bid submission, along with copies of Balance Sheet, Profit & Loss Account, Schedules and Cash Flow Statement supported with bank statements certified by a practicing Chartered Accountant/Statutory Auditor, in order to demonstrate fulfilment of the criteria. In case of foreign Companies, the Bidders shall be required to submit the annual audited accounts for the last respective financial year as per the general norm in the country where the Bidder or its Affiliate(s) is/are located, or provisional accounts as on the day at least 7 days prior to the bid submission deadline.

Note: In case of foreign Bidders, in the event the Bidder is unable to furnish the audited accounts for the previous financial year as per the prevalent norm in the respective country, the Bidder shall submit the audited accounts of the last financial year for which the audited accounts are available. This, however, would be acceptable, subject to the condition that the last date of response to this RfS falls on or within the deadline for completion of audit of annual accounts of companies, as stipulated by the laws/rules of the respective country, and the Bidder shall submit the corresponding documentary evidence against the same.

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

- VI. For meeting the above financial eligibility criteria, if the data is provided by the Bidder in a foreign currency, equivalent Indian Rupees of Net Worth and other financial parameters will be calculated by the Bidder using Reserve Bank of India's reference rates prevailing on the date of closing of the accounts for the respective financial year.
- VII. In case of any currency for which RBI reference rate is not available, Bidders shall convert such currency into USD as per the exchange rates prevailing on the relevant date and used for such conversion, as certified by their banker. After such conversion, Bidder shall follow the procedure/ submit document as elaborated in Clause 3.5.C.V above.
- VIII. In case the response to RfS is submitted by a Consortium, then the financial requirement (both the Net-Worth and Liquidity requirements) to be met by each Member of the Consortium shall be computed in proportion to the equity commitment made by each of them in the Project Company.

For e.g.: if two companies A and B form a Consortium with equity participation in 70:30 ratio and submit

their bid for a capacity of 200 MW, then, total Net-Worth to be met by the Consortium is Rs. 1 Crores x 200 MW = Rs. 200 Crores. Minimum requirement of Net-Worth to be met by Lead Member A would be minimum Rs. 140 Crores and to be met by Consortium Member B would be Rs. 60 Crores.

3.6. NOT USED

3.7. CONNECTIVITY WITH THE GRID

- 3.7.1. The Project should be designed for delivery of energy at Delivery Point.
- 3.7.2. The responsibility of getting the grid connectivity with long-term open access (LTA) from CTU/STU as the case may be and maintaining for the entire project life shall entirely be the responsibility of the HPD.
- 3.7.3. The transmission of power up to Delivery Point including absorption of transmission losses, energy accounting etc shall be the responsibility of the HPD at his own cost.
- 3.7.4. Not used.
- 3.7.5. The HPD shall not be entitled to any deemed generation benefits in case of any delay in grant of connectivity and/or open access till the Delivery Point.
- 3.7.6. The HPD shall comply CERC/SERC regulations on Forecasting, Scheduling and Deviation Settlement, as applicable and shall be responsible for all liabilities related to LTA and Connectivity.
- 3.7.7. The HPD shall be responsible for all transmission charges and losses and any other charges as applicable under the respective regulations till the Delivery Point.
- 3.7.8. Government of India from time to time issues order for waiver of inter-state transmission system (ISTS) charges and losses on transmission of wind/solar power till a certain date. In case the commissioning of the Project gets delayed beyond the applicable date of ISTS waiver, arising out of any reasons whatsoever, TPDDL shall bear no liability with respect to transmission charges and losses levied, if any. Further, in case SCOD of the Project is prior to the above deadline of waiver of ISTS charges and losses, and commissioning of the Project is delayed beyond the above date for the reasons attributable to the HPD, the applicable transmission charges and losses shall be borne by the HPD. In no case, TPDDL shall be liable to bear transmission charges and losses till the delivery point.

3.8. NOT USED

3.8A PERFORMANCE MONITORING/REPORTING OF METERED DATA AND PARAMETERS

- 3.8A.1 All hybrid power plants will install necessary equipment to continuously measure wind and solar resource data such as ambient air temperature, wind speed and other weather parameters and electrical parameters such as the electric power generated from the plant.
- 3.8A.2 Online arrangement would have to be made by the HPD for submission of above data regularly for the entire period of the Power Purchase Agreement to the SLDC, TPDDL, National Institute of Wind Energy (NIWE) and/or other concerned Ministry and/or designated agency as per applicable regulations / directions/Guidelines.
- 3.8A.3 Reports on above parameters on monthly basis (or as required by regulation / Guidelines) shall also be submitted by the HPD to Ministry of New and Renewable Energy/ TPDDL /National

3.9. POWER GENERATION BY WIND-SOLAR HYBRID POWER DEVELOPER

A. Criteria for generation

The Bidders will declare the annual CUF of their Projects in the Covering Letter as per Format 6.1 and HPDs will be allowed to revise the same once within first three years after COD. The declared annual CUF shall in no case be less than **30% (thirty percent)**. Calculation of CUF will be on yearly basis from 1st April of the year to 31st March of next year. HPD shall maintain generation so as to achieve annual CUF not less than 90% of the declared value and not more than 120% of the declared CUF value, during the PPA duration of 25 years. The lower limit will, however, be relaxable by TPDDL to the extent of non-availability of grid for evacuation which is beyond the control of the HPD subject to concurrence from the Appropriate Commission. Energy supplied between COD and the commencement of first financial year after COD will not be taken into consideration for the purpose of calculation of CUF. Subsequently, the annual CUF will be calculated every year from 1st April of the year to 31st March next year. The Buying Entity shall use the hybrid power for fulfilment of solar and non-solar RPO in the proportion of rated capacity of solar and wind power in the hybrid project respectively. The HPDs are free to install additional wind turbines/solar panels to account for auxiliary consumption in the Projects.

B. Shortfall in minimum generation

During the term of the Project, subsequent to commissioning of Project, if for any year, it is found that the HPD has not been able to generate minimum energy corresponding to the lower limit of CUF declared by the HPD, such shortfall in performance shall make the HPD liable to pay the compensation provided in the PPA as payable to TPDDL. This will, however, be relaxable by TPDDL to the extent of grid non-availability for evacuation, which is beyond the control of the HPD (subject to consent of Appropriate Commission if required). The amount of compensation shall be calculated at 50% (fifty percent) of the PPA tariff for the shortfall in energy terms, in accordance with the terms of the PPA. This compensation shall be applied to the amount of shortfall in generation during the year. However, this compensation shall not be applicable in events of Force Majeure identified under PPA with TPDDL affecting supply of wind-solar hybrid power by HPD.

The reference to the compensation for shortfall to be paid by the HPD to TPDDL for not meeting RPOs is only a measure of damage. It shall not be construed that the compensation is payable by the HPD only if TPDDL is required to pay compensation for not meeting of RPOs. TPDDL shall not be required to prove or establish that such payment of compensation is for not meeting the RPOs.

The HPD shall agree that the methodology specified herein above for calculation of liquidated damages payable by the HPD for shortfall in generation is a genuine and accurate pre-estimation of the actual loss that will be suffered by TPDDL. The HPD shall further acknowledge 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 TPDDL in each case specified under this Agreement.

C. Excess generation

The HPD may repower the Project at a later stage, if required as per the Guidelines. However, in no case the HPD will be allowed to inject power more than capacity allotted. The HPD will not be allowed to sell excess energy beyond the limit as per the CUF, to any entity other than TPDDL, unless refused by TPDDL. In case TPDDL purchases the excess generation, the same shall be done at 75% (seventy-five per cent) of the PPA tariff. In case at any point of time, the peak of capacity reached is higher than the allotted capacity and causes disturbance in the system at the point where power is injected,

the HPD will have to forego the excess generation and reduce the output to the allotted capacity to ensure compliance with grid requirement.

D. Offtake constraints due to Backdown:

Offtake constraints due to Backdown: The HPD and TPDDL shall follow the forecasting and scheduling process as per the regulations in this regard by the Appropriate Commission. The Government of India, as per Clause 5.2(u) of the Indian Electricity Grid Code (IEGC), encourages a status of “must-run” to Wind and Solar power projects. Accordingly, no wind solar hybrid power plant, duly commissioned, should be directed to back down by a Discom/ Load Dispatch Centre (LDC). In case of backdown, including non-dispatch of power due to non-compliance with "Order No. 2312212019-R&R dated 28.06.2019 of Ministry of Power regarding Opening and maintaining of adequate Letter of Credit (LC) as Payment Security Mechanism under Power Purchase Agreements by Distribution Licensees" and any clarifications or amendment thereto, the Power Generator shall be eligible for a Minimum Generation Compensation, from TPDDL, in the manner detailed below:

Duration of Backdown	Provision for Generation Compensation
Hours of Backdown during a monthly billing cycle.	<p><i>Minimum Generation Compensation = 100% of [(Average Generation per hour during the month) (number of backdown hours during the month) x PPA Tariff]</i></p> <p><i>Where, Average Generation per hour during the month (kWh) = Total generation in the month (kWh) ÷ Total hours of generation in the month</i></p>

The Generation Compensation as calculated above, will be limited to the extent of shortfall in annual generation corresponding to the maximum CUF permitted as per Clause 3.9A above and the same will be paid as part of the energy bill for the successive month after receipt of Regional Energy Accounts (REA).

No compensation shall be payable, however, if the backdown/ curtailment is on account of considerations of grid security/ safety. Such a backdown will be recorded and reported to RLDC/ NLDC. RLDC/ NLDC will examine the issue of grid safety/ security and give a finding that the issue of grid safety existed.

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

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

- No Objection (NOC)/Environmental clearance (if applicable) for the Project.
- Forest Clearance (if applicable) for the land for the Project.
- HPDs setting up projects in vicinity of Air Force bases/aerodromes, are advised to apply for necessary MoD clearances within 60 days of issuance of LoAs.

- d. In case of Projects being set up in the States of Gujarat & Rajasthan, the HPD shall abide by MNRE's Guidelines on "Retrofitting of transmission lines and wind turbines to avoid bird collision in Great Indian Bustard (GIB) habitats of Rajasthan & Gujarat", vide OM No. 238/2/2019-Wind dated 22nd Feb 2019, and subsequent amendments and clarifications thereof.
- e. Any other clearances as may be legally required, in order to establish and operate the Project.
- f. No objection certificate (NOC) from Ministry of Defence (if applicable).
- g. A letter from Central Transmission Utility (CTU) confirming technical feasibility of connectivity of the plant to CTU substation.

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

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

The Bidder shall provide the following Bank Guarantees to TPDDL in a phased manner as follows:

- i) **Earnest Money Deposit (EMD) of Rs. 5 Lakh / MW** in the form of Bank Guarantee according to Format 6.3 A and valid for 09 months from the last date of bid submission (extendable based on mutual consent of the bidder and TPDDL) shall be submitted by the Bidder along with their bid, failing which the bid shall be summarily rejected. The Bank Guarantees towards EMD shall be issued in the name of the Bidder / Lead Member of Bidding Consortium. In the event of encashment of EMD, the encashed amount shall include all applicable taxes.

The Bidder shall furnish the Bank Guarantees towards EMD from any of the Scheduled Commercial Banks as listed on the website of Reserve Bank of India (RBI) and amended as on the date of issuance of bank guarantee. Bank Guarantee issued by foreign branch of a scheduled Commercial Bank is to be endorsed by the Indian branch of the same bank or State Bank of India (SBI).

- ii) **Performance Bank Guarantee (PBG):** Bidders selected by TPDDL based on this RfS shall submit Performance Bank Guarantee for a value of **@ Rs 10 Lakh/MW/Project** within 7 days before signing of PPA. It may be noted that successful Bidders shall submit the Performance Bank Guarantee according to the Format 6.3B, issued in the name of TPDDL, for a value **@ Rs 10 Lakh/MW/Project** with a validity period starting from the date of issuance of the PBG until 30 months from the Effective Date of the PPA. The PBG shall be required to be issued in the name of the Company signing the PPA with TPDDL, i.e. either the successful Bidder or the SPV incorporated for implementing the Project. On receipt and after successful verification of the total Performance Bank Guarantee in the acceptable form, the BG submitted towards EMD shall be returned by TPDDL to the successful Bidder. Non-submission of PBG within the above mentioned timelines shall be treated as follows:
 - a) **Delay upto 1 month from due date of submission of PBG:** Delay charges @1% of the PBG amount + GST (as applicable) per month levied on per day basis shall be paid by the HPD to TPDDL in addition to the PBG amount.
 - b) **Delay beyond 1 month from the due date of submission of PBG:** The BG against EMD submitted by the HPD shall be encashed by TPDDL and the Project shall stand terminated. In case of delay in making full payment of above delay charges, the amount paid, if any until the above deadline, along with interest, shall be first reduced from the total amount

due towards the delay charges and interest amount (i.e. rate of interest as stated below). Further, balance amount to be paid shall attract Interest rate @ one year SBI MCLR rate /annum on prorata basis.

For the purpose of calculation of the above delay charges, 'month' shall be considered as a period of 30 days. TPDDL has agreed to accept the PBG in the form of an unconditional and irrevocable Bank Guarantee instead of the cash deposit with the clear position intimated to the bidder that the PBG shall be encashable for being appropriated by TPDDL in terms of the guarantee as in the case of appropriation of the cash deposit lying with TPDDL.

- iii) All Performance Bank Guarantees (PBGs) shall be preferably submitted separately for each Project.

Note: The PBGs are required to be submitted in the name of the entity signing the PPA. In case of PPA being eventually signed with the SPV incorporated/utilized by the successful bidder, the PBG may be submitted in the name of the successful bidder within the above prescribed deadline, if the bidder chooses to do so, and the same shall be replaced by the PBG issued in the name of the SPV, prior to signing of PPA.

- iv) The successful Bidder shall furnish the PBGs from any of the Scheduled Commercial Banks as listed on the website of Reserve Bank of India (RBI) and amended as on the date of issuance of bank guarantee. PBGs issued by foreign branch of a Scheduled Commercial Bank is to be endorsed by the Indian branch of the same bank or State Bank of India (SBI).
- v) The format of the Bank Guarantees prescribed in the Formats 6.3 A (EMD) and 6.3 B (PBG) shall be strictly adhered to and any deviation from the above Formats shall result in rejection of the EMD/PBG and consequently, the bid. In case of deviations in the formats of the Bank Guarantees, the corresponding PPA shall not be signed.
- vi) The Bank Guarantees have to be executed on non-judicial stamp paper of appropriate value as per Stamp Act relevant to the place of execution.
- vii) All expenditure towards execution of Bank Guarantees such as stamp duty etc. shall be borne by the Bidders/HPDs. Any Bank Guarantee or amendment to be submitted as part of the bidding process / contract execution, shall be effective only when the BG issuance message is transmitted by the issuing bank through SFMS to **AXIS Bank Ltd., Corporate Banking Branch, Account no 915030039791179, IFSC CODE UTIB0001609. Beneficiary Name, Tata Power Delhi Distribution Limited** and a confirmation in this regard is received by TPDDL.

In case of Bank Guarantees issued by foreign branch of a Scheduled Commercial Bank, the same is to be endorsed by the Indian branch of the same bank or SBI, and the endorsing bank would be required to provide the SFMS confirmation.

- viii) In order to facilitate the Bidders to submit the Bank Guarantee as per the prescribed format and in line with the requirements, checklist at Annexure-B has been attached. Bidders are advised to take note of the above checklist while submitting the Bank Guarantees.
- ix) After the bidding process is over, TPDDL shall release the Bank Guarantees towards EMD of the unsuccessful Bidders/project capacities within 15 days after conducting the e-reverse auction. The PBG of the HPD shall be returned to the HPD immediately after successful commissioning of their projects as per terms of PPA, after taking into account any liquidated damages due to delays in commissioning as per Clause 3.17.
- x) The selected Bidders are required to sign PPA with TPDDL in line with the timelines as mentioned in Clause 3.14. In case, the selected Bidder refuses to execute the PPA within the

stipulated time period, the Bank Guarantee equivalent to the amount of the EMD shall be encashed by TPDDL from the Bank Guarantee available with TPDDL (i.e. either EMD or PBG) as liquidated damages not amounting to penalty, and the selected Project(s) shall stand cancelled and the selected Bidder expressly waives off its rights and objections, if any, in that respect.

3.12. NOT USED

3.13. FORFEITURE OF EMD

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

- i) If the Bidder withdraws or varies the bid after due date and time of bid submission and during the validity of the bid;
- ii) In case, TPDDL offers to execute the PPA with the Selected Bidder and if the Selected Bidder does not submit the requisite documents as per Clause 3.14 or does not execute the PPA within the stipulated time period;
- iii) If after date of issue of LOA, it is found that the documents furnished by the Bidder during RfS are misleading or misrepresented in any way and that relevant facts have been suppressed; and
- iv) If the bidder fails to furnish required Performance Bank Guarantee in accordance with Clause 3.11.

3.14. POWER PURCHASE AGREEMENT

3.14.1. A copy of Standard Power Purchase Agreement to be executed between TPDDL and the HPD shall be provided along with this RfS. The PPA shall be signed within 90 days from the date of issue of Letter of Award (LoA), if not extended by TPDDL. (For e.g. If the LOA is dated 07-09-2022, then the last date of signing of PPA shall be 06-12-2022). Subsequent extension in this timeline shall be finalized as mutually agreed by TPDDL and the HPD.

The PPA will remain in force for a period of 25 years from the SCD or from the date of full/ mutually agreed commissioning date of the projects, whichever is earlier.

3.14.2. The Performance Bank Guarantee as per Clause 3.11 above, shall be submitted by the HPD prior to signing of PPA. Before signing of PPA between TPDDL and the HPDs, TPDDL will verify the documents furnished by the Bidders at the time of submission of response to RfS including the shareholding of the Project Company along with a copy of complete documentary evidence supported with the documents. If at this stage it is found that the documents furnished by the HPDs are false / misleading or misrepresented in any way, then the provisions contained in this RfS will be applicable.

3.14.3. Successful Bidders will have to submit the required documents to TPDDL preferably within 70 days of date of issue of Letter of Award (LOA). In case of delay in submission of documents beyond the timeline as mentioned above, TPDDL shall not be liable for delay in verification of documents and subsequent delay in signing of PPA.

In case of delays on the part of the HPD in submission of requisite documents prior to signing of PPAs, the Effective date of the PPA shall be treated as the date which is as on 90 days from issuance of LOA, irrespective of the date of signing of PPA. In extraordinary cases of unavoidable delays on the part of TPDDL in signing the PPAs, the Effective Date of the PPA shall then be the date of signing of PPA. TPDDL will be obliged to buy the entire power as per generation schedule, to be provided by the HPDs subject to limitations as per Clause 3.9.C, required under grid regulations. However, the HPDs are required to achieve a minimum CUF as stipulated in Clause

3.9 A.

- 3.14.4. The HPDs will be free to reconfigure and repower their Projects from time to time during the PPA duration. However, TPDDL will be obliged to buy power only within the CUF range laid down in the PPA, and any excess generation shall be dealt as per the relevant clause of the PPA. Further the minimum ratio of both the resources (wind and solar) shall be kept as per Clause 3.1 of the Guidelines.
- 3.14.5. The HPDs are free to operate their projects after expiry of the 25 years of PPA period if other conditions such as land lease etc., permit. However, any extension of the PPA period beyond 25 years shall be through mutual agreements between the HPD, TPDDL as approved by the Appropriate Commission, provided that the arrangements with the land and infrastructure owning agencies, the relevant transmission utilities and system operators permit operation of the Project beyond the initial period of 25 years.

3.15. LAND ARRANGEMENTS FOR THE PROJECT

Notwithstanding anything to the contrary, the HPD shall demonstrate clear possession and right to use 100% of the land identified for the Project, at least 3 (three) months before the SCOD of the Project. In this regard, the HPD shall be required to furnish documents/lease agreements to establish possession and right to use 100% of the required land in the name of the HPD for a period not less than the complete term of the PPA.

In case of leasing of Government land, appropriate state regulations regarding tenure of lease agreement shall be applicable. In both cases where the lease agreements are for a period shorter than the PPA Term, solely on account of applicable State Governmental regulations, the HPD shall be required to submit an undertaking that the lease agreements shall be appropriately extended in line with the Term of the PPA, when required.

The above data shall be submitted along with a sworn affidavit from the authorized signatory of the HPD listing the details of the land and certifying that total land required for the Project is under clear possession of the HPD, at least 3 (three) months before the SCOD.

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

It is to be noted that delay in commissioning of the Project due to changes in Project location(s) and/or connectivity / LTA, if any, will be on account of the HPD, and will be dealt as per the provisions of the RfS / PPA.

3.16. FINANCIAL CLOSURE OR PROJECT FINANCING ARRANGEMENTS

- i The Projects shall achieve Financial Closure within 12 (twelve) months from the date of signing of the Power Purchase Agreement. *For e.g. If the date of signing of the PPA is 07.10.2022, then the last date of achieving Financial Closure shall be 06.10.2023.*

At the stage of financial closure, the HPDs shall report 100% tie-up of Financing Arrangements for the Projects. In this regard, the HPD shall submit a certificate/necessary documents from all financing agencies regarding the tie-up of 100% of the funds indicated for the Project, including arrangements of funds in the form of Equity.

- ii In case of delay in achieving above condition as may be applicable, TPDDL shall encash Performance Bank Guarantees and shall remove the project from the list of the selected projects, unless the delay is on account of Force Majeure.
- iii An extension can however be considered by TPDDL on the sole request of HPD, on payment of Rs. 1,000/- per day per MW as extension charges. This extension will not have an impact on the Scheduled Commissioning Date of the Project. Subsequent to the completion of deadline for achieving Financial Closure, the HPDs, who are not meeting the requirements of Financial Closure as per the RfS deadlines, shall issue notices to TPDDL. Upon receipt of the notice, TPDDL shall provide a period of 7 (seven) Business Days to the respective HPDs to either furnish the necessary documents or make the above mentioned payment of Rs. 1,000/MW/day. In case of non-submission of either, i.e. the requisite documents or the necessary amount upon expiry of the above mentioned notice period of 7 (seven) Business Days, TPDDL shall encash the PBG of the corresponding HPDs and terminate the PPA for the corresponding Project. The amount of Rs. 1,000/MW/day shall be paid by the HPDs in advance prior to the commencement of the said delay period and shall be calculated based on the period of delay as estimated by the HPD. In case of the HPD meeting the requirements of Financial Closure before the last date of such proposed delay

period, the remaining amount deposited by the HPD shall be returned by TPDDL. Interest on account of delay in deposition of the above mentioned charges or on any subsequent extension sought, shall be levied @ one year SBI MCLR rate /annum on pro-rata basis. Any extension charges paid so, shall be returned to the HPD without any interest on achievement of successful commissioning within the Scheduled Commissioning Date, on pro-rata basis, based on the project capacity commissioned as on Scheduled Commissioned Date.

- iv In addition to the above, the compliance of Financial Closure shall entail fulfilment of the following conditions:
 - a. Submission of the details of all planned/proposed solar panels, inverters and wind turbine generators, along with necessary purchase order/agreements for the project at least 14 days prior to the scheduled Financial Closure date.
 - b. Checklist of documents to be submitted at this stage is provided at Annexure-D of the RfS. HPDs will have to submit the required documents to TPDDL at least 14 days prior to the scheduled Financial Closure date. In case of delay in submission of documents mentioned above, TPDDL shall not be liable for delay in verification of documents and subsequent delay in Financial Closure.

3.17. COMMISSIONING

Commissioning of the Projects shall be carried out by the HPDs in line with the procedure elaborated in the PPA document. TPDDL may authorize any individual, committee, or organization to witness and validate the commissioning procedure on site. Commissioning certificates shall be issued by the State Nodal Agency or any authorized agency nominated by the bidder after successful commissioning.

A. Part Commissioning

Part commissioning of the Project shall be carried out as mentioned below:

The minimum capacity for acceptance of first part commissioning at one project site shall be 50% of the allocated Project Capacity or 50 MW, whichever is lower, without prejudice to the imposition of penalty, in terms of the PPA on the part which is not commissioned. A project capacity of 100 MW or less can be commissioned in maximum two parts.

In case of part commissioning of the Project, it shall be mandatory to demonstrate commissioning of both components (wind and solar) in line with TPDDL approval. (Individual commissioning of solar or wind shall not be considered as part commissioning of the hybrid project.)

However, the SCD will not get altered due to part-commissioning. In case of part commissioning of the Project, land corresponding to the part capacity being commissioned, shall be required to be demonstrated by the HPD prior to declaration of commissioning of the said part capacity. Irrespective of dates of part commissioning, the PPA will remain in force for a period of 25 years from the SCD or from the date of full/ mutually agreed commissioning date, whichever is earlier. In case of early part commissioning, till the achievement of full commissioning or SCOD, whichever is earlier, TPDDL shall purchase such generation till SCOD at PPA tariff.

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

- a. The Project shall be fully commissioned by the Scheduled Commissioning Date (SCD), which is 24 months from the Effective Date of the PPA. (for e.g. if the PPA is executed on 07.10.2022, the SCD shall be 06.10.2024).
- b. The maximum deadline allowed for commissioning of the full Project Capacity shall be limited to the date as on 6 months from the SCD for which extension shall be, at the sole discretion of TPDDL.
- c. In case of delay in commissioning of the Project beyond the SCD until the deadline as per Clause 3.17 (B).b. above, as part of the liquidated damages, the total PBG amount for the Project shall be encashed on per-day basis and proportionate to the balance capacity not commissioned. For example, in case of a Project of 240 MW capacity, if commissioning of 100 MW capacity is delayed by 18 days beyond the SCD, then the liquidated damages shall be: PBG amount X (100/240) X (18/180).
- d. In case Commissioning of the Project is delayed beyond the date as per Clause 3.17 (B).b. above, the PPA capacity shall stand reduced/ amended to the Project Capacity Commissioned as on the date as per Clause 3.17 (B).b. above, and PPA for the balance capacity not commissioned will stand terminated and shall be reduced from the selected Project Capacity.

In case of delay in commissioning of the Project due to reasons beyond the reasonable control of the HPD, TPDDL may extend the SCD after examining the issue on a case-to-case basis subject to approval from Appropriate Commission/Authority. However, TPDDL will not be liable for any transmission charges liability (CTU waiver for Transmission charges applicable presently till June'2025) arising out of such delay by HPD/ reasons beyond control of HPD or any other reason whatsoever.

- e. It is to be noted that commissioning/part commissioning of the Project will not be declared until the HPD demonstrates possession of land in line with Clause 3.15 above, in addition to the other conditions as per the Commissioning Procedure. For part-commissioning, portion of land on which the part of the project is commissioned should be under clear possession of the HPD in accordance with clause 3.15.

C. Delay in Commissioning on Account of Delay in LTA Operationalization

Long Term Access (LTA)/ Medium Term Access / Short Term Access shall be required to be submitted by the HPD prior to commissioning of the Project. However, for the sale of power to TPDDL from the SCD, the HPD shall have Long Term Access. The ISTS/ InSTS substation at the Delivery Point and the power evacuation and transmission infrastructure, with which the HPD applies for connectivity, should be scheduled for completion on or before the SCD of the Project, so as to match the two timelines. Subject to adherence to the above, subsequent to grant of connectivity, in case there is a delay in grant/operationalization of LTA by the CTU/ STU and/or there is a delay in readiness of the ISTS/ InSTS substation at the Delivery Point, including readiness of the power evacuation and transmission infrastructure of the ISTS/ InSTS network until SCD of the Project, and it is established that:

- (i) The HPD has complied with the complete application formalities as per Clause 3.7.2 above and the ISTS/ InSTS substation at the Delivery Point and the power evacuation and transmission infrastructure of the ISTS/ InSTS network, with which the HPD has applied for connectivity, was scheduled for completion on or before the SCD of the Project;

- (ii) The HPD has adhered to the applicable Procedure in this regard as notified by the CERC/ DERC/ JERC/ CTU/ STU; and
- (iii) The delay in grant of connectivity/LTA by the CTU/ STU and/or delay in readiness of the ISTS/ InSTS substation at the Delivery Point, including readiness of the power evacuation and transmission infrastructure of the ISTS/ InSTS network, is a factor solely attributable to the CTU/STU/ transmission licensee and is beyond the control of the HPD.

The above shall be treated as delays beyond the control of the HPD and SCD for such Projects shall be eligible for suitable time extension. Decision on requisite extension on account of the above factor shall be taken by TPDDL subject to consent of the Appropriate Commission/Authority. However, TPDDL will not be liable for any transmission charges liability arising out of such delay by HPD/ reasons beyond control of HPD or any other reason whatsoever.

D. Early Commissioning

The HPD shall be permitted for full commissioning as well as part commissioning of the Project even prior to the Scheduled Commissioning Date, subject to availability of transmission connectivity and Long-Term/ Medium Term/ Short Term Access. Early commissioning of the Project will be allowed solely at the risk and cost of the HPD, and TPDDL shall purchase the energy from such early commissioned Project at the PPA tariff. Such intimation for early commissioning shall be provided to TPDDL at least 15 (fifteen) days prior to the proposed early commissioning date. In case there is no response provided by TPDDL within 30 (thirty) days from the receipt of such intimation, such early commissioned capacity shall be deemed to have been refused by TPDDL.

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

3.18. COMMERCIAL OPERATION DATE (COD)

The Commercial Operation Date (COD) shall be considered as the actual date of commissioning of the project as declared by the State Nodal agency/Commissioning Committee as appointed/ decided by the bidder in line with the prescribed methodology. In case of part commissioning, COD will be declared only for that part of project capacity.

The following two milestone dates for commissioning may therefore be observed and may fall on separate dates:

- i) **Inter connection with Grid:** This may be provided by the PGCIL/State Transmission Company on the request of the HPD, to facilitate testing and allow flow of power generated into the grid to avoid wastage of power.
- ii) **Commissioning of Project:** This will be on a date, when the Project meets the criteria defined for project commissioning. Any infirm power produced and flowing into the grid before COD shall not be at the cost of TPDDL under this scheme and HPD will be free to make short-term sale to any organization or individual as per regulations with the first right of refusal being with TPDDL.

3.19. In order to remove potential discrepancies and ambiguities, the bidders are hereby instructed that, as part of scheduling of power from the Project, the HPDs will be required to punch-in their respective schedules and subsequent revisions, by themselves, at the interfaces of all the RLDCs concerned for the corridor of power flow, including the RLDC of the Buying Entity/Discom (TPDDL) as per the Regulations in force. The HPD shall be solely responsible for discrepancy identification and its rectification to avoid any rejection/less payment of invoices.

3.20. MINIMUM PAID UP SHARE CAPITAL TO BE HELD BY PROJECT PROMOTER

- i) The Bidder shall provide complete information in their bid in reference to RfS about the promoters and upon issuance of LOA, the HPD shall indicate its shareholding in the company indicating the controlling shareholding, before signing of PPA with TPDDL.
- ii) No change in the shareholding of the Bidding Company or Bidding Consortium shall be permitted from the date of submission of response to RfS till the execution of the PPA. However, in case the Project is being set up by a listed Company, this condition will not be applicable. Following shall not be considered as change in shareholding as mentioned above:
 - 1. Infusion of fresh equity capital amongst the existing shareholders/promoters at the time of Bid submission to meet equity requirements.
 - 2. Conversion of CCDs, CCPs etc. already issued to existing shareholders.
 - 3. Death, marriage, Divorce, minor attaining major status (any legal heir who was minor at the time of signing of PPA), insolvency, insanity of existing shareholders.
 - 4. Transfer of shares within the members of Promoter Group.
 - 5. Transfer of shares to IEPF.
 - 6. Issue of Bonus Shares
- iii) In case of Projects being implemented through SPVs: The successful Bidder, if being a single company, shall ensure that its shareholding in the SPV/project company executing the PPA, shall not fall below 51% at any time prior to 1 (one) year after the COD. In the event the successful bidder is a consortium, then the combined shareholding of the consortium members in the SPV/project company executing the PPA, shall not fall below 51% at any time prior to 1 (one) year after COD. However, in case the Project is being set up by a listed Company, this condition will not be applicable.
- iv) In case of the successful Bidder itself executing the PPA, it shall ensure that its promoters shall not cede control (Control shall mean the ownership, directly or indirectly, of more than 50% of the voting shares of such Company or right to appoint majority Directors), till 1 (one) year after the COD. However, in case the Project is being set up by a listed Company, this condition will not be applicable.
- v) In case of companies having multiple promoters (but none of the shareholders having not less than 51% of voting rights and paid up share capital), it shall be considered as a company under joint control. In such cases, the shareholding pattern in the company as submitted at the time of bidding, shall be maintained for a period of (01) one year after Commercial Date of Operation (COD).
- vi) Any change in the shareholding after the expiry of 1 year from COD can be undertaken under intimation to TPDDL. Transfer of controlling the shareholding with in the same group of Companies will however be allowed after CoD, with the permission of TPDDL, subject to the condition that, the management control remains within the same group of companies.

3.21. STRUCTURING OF THE BID SELECTION PROCESS

Single stage, double envelope bidding followed by e-reverse auction has been envisaged under this RfS. Bidders have to submit both Techno-commercial bid and Financial bid together in response to this RfS online. The preparation of bid proposal has to be in the manner described in Clause 3.25.

3.22. INSTRUCTIONS TO BIDDERS FOR STRUCTURING OF BID PROPOSALS IN RESPONSE TO RfS

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

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

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

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

3. Earnest Money Deposit (EMD) in the form as per **Format 6.3 A**.
4. Board Resolutions, as per prescribed formats enclosed as **Format 6.4** duly certified by the Company Secretary or the Director of the relevant Bidder, as applicable to the Bidder and mentioned hereunder:
 - a. Board resolution from the Bidding Company or the Lead Member of the Consortium, as the case may be, in favour of the person signing the response to RfS and in the event of selection of the Projects, to sign the PPA with TPDDL.
Also, Board Resolution from each member of the Consortium in favour of the person signing Consortium Agreement.
 - b. Board Resolution from the Bidding Company committing one hundred percent (100%) of the equity requirement for the Project / Board Resolutions from each of the Consortium Members together in aggregate committing to one hundred percent (100%) of equity requirement for the Project (in case of Bidding Consortium); and
 - c. Board Resolutions from each of the Consortium Members and Lead member contributing such additional amount over and above the percentage limit (specified for the Lead Member and other member in the Consortium Agreement) to the extent becoming necessary towards the total equity share in the Project Company, obligatory on the part of the Consortium pursuant to the terms and conditions in the Consortium Agreement.
5. In case of a Consortium, the Consortium Agreement between the Members in the Consortium as per **Format 6.5** along with Board resolution from each Member of the Consortium for participating in Consortium.

6. **Format of Financial Requirement as per Format 6.6**, along with the certificate from practicing Chartered Accountant/Statutory Auditors showing details of computation of the financial

credentials of the Bidder.

7. Undertaking regarding no willful default and no major litigation pending as per **Format 6.7.**
8. Format for Disclosure as per **Format 6.8.**
9. Format for Commitment to Financial Closure as per **Format 6.9.**

10. Attachments :

- i) Memorandum of Association, Article of Association needs to be attached along with the bid.

The bidder should also highlight the relevant provision which highlights the objects relating to Power/ Energy/ Renewable Energy/ Solar/Wind Power plant development.

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

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

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

- iv) Certified copies of annual audited accounts for the last financial year, i.e. FY 2021-22 provisional audited accounts, along with certified copies of Balance Sheet, Profit & Loss Account, Schedules and Cash Flow Statement supported with bank statements as on the date at least 7 days prior to the due date of bid submission (if applicable), shall be required to be submitted;

- v) Details of all types of securities/instruments which are pending conversion into equity whether optionally or mandatorily.

- vi) Bidder shall be additionally required to furnish the break-up of the Estimated Project Cost as per **Format 6.11 A** (separately for each project) as part of the response to RfS.

3.23. IMPORTANT NOTES AND INSTRUCTIONS TO BIDDERS

- a. Wherever information has been sought in specified formats, the Bidders shall fill in the details as per the prescribed formats and shall refrain from any deviations and referring to any other document for providing any information required in the prescribed format.
- b. The Bidders shall be shortlisted based on the declarations made by them in relevant provisions of RfS. The documents submitted online will be verified before signing of PPA in terms of Clause 3.14.
- c. If the Bidder/ Member in a Bidding Consortium conceals any material information or makes a wrong statement or misrepresents facts or makes a misleading statement in its response to RfS, in any manner whatsoever, TPDDL reserves the right to reject such response to RfS and/or cancel the Letter of Award, if issued, and the Bank Guarantee provided up to that stage shall be encashed. Bidder shall be solely responsible for disqualification based on their declaration in the submission of response to RfS.
- d. If the event specified at 3.23 (c) is discovered after the Effective Date of PPA, consequences specified in PPA shall apply.
- e. Response submitted by the Bidder shall become the property of the TPDDL and TPDDL shall have no obligation to return the same to the Bidder. However, the EMDs submitted by unsuccessful Bidders shall be returned as specified in Clause 3.11.

- f. All documents of the response to RfS (including RfS, PPA and all other documents uploaded on Bharat-Electronic Tender e-Tendering Portal as part of this RfS) submitted online must be digitally signed by the person authorized by the Board as per Format 6.4.
- g. The response to RfS shall be submitted as mentioned in Clause 3.22. No change or supplemental information to a response to RfS will be accepted after the scheduled date and time of submission of response to RfS. However, TPDDL reserves the right to seek additional information from the Bidders, if found necessary, during the course of evaluation of the response to RfS.
- h. The Bidder shall make sure that the correct, valid and operative Pass-Phrase to decrypt the relevant Bid-part is submitted into the 'Time Locked Electronic Key Box (EKB)' after the deadline of Bid submission, and before the commencement of the Online Tender Opening Event (TOE) of Technical bid.
- i. All the information should be submitted in English language only. In case of foreign bidders having documents in other than English language, then the documents shall be translated in English language by certified translator and submitted.
- j. Bidders shall mention the name of the contact person and complete address of the Bidder in the covering letter.
- k. Response to RfS that are incomplete, which do not substantially meet the requirements prescribed in this RfS, will be liable for rejection by TPDDL.
- l. Response to RfS not submitted in the specified formats will be liable for rejection by TPDDL.
- m. Bidders delaying in submission of additional information or clarifications sought may be rejected by TPDDL.
- n. Non submission and/or submission of incomplete data/ information required under the provisions of RfS shall not be construed as waiver on the part of TPDDL of the obligation of the Bidder to furnish the said data/information unless the waiver is in writing.
- o. The Central Electricity Regulatory Commission / Delhi Electricity Regulatory Commission shall be the Appropriate Commission to exercise the regulatory and adjudicatory jurisdiction in regard to matters between HPD and TPDDL, as the case maybe. Subject to the above, only Delhi Courts shall have exclusive jurisdiction in all matters pertaining to this RfS.
- p. All the financial transactions to be made with TPDDL including, compensation on account of less supply, delay charges, and any additional charges (if required), shall attract GST (as applicable) on each transaction, irrespective of the same being mentioned in the RfS/PPA.

3.24. NON-RESPONSIVE BID

The electronic response to RfS submitted by the bidder along with the documents submitted **online** to TPDDL shall be scrutinized to establish "Responsiveness of the bid". Each bidder's response to RfS shall be checked for compliance with the submission requirements set forth in this RfS.

Any of the following conditions shall cause the Bid to be "Non-responsive":

- a. Non-submission of the requisite cost of RfS as mentioned in the Bid Information Sheet.
- b. Non-submission or partial submission of EMD in acceptable form along with RfS document.
- c. Response to RfS not received by the due date and time of bid submission;
- d. Non submission of correct, valid and operative Pass-Phrases for both Technical and Financial Bid (Price Bid) Parts after the deadline of Bid submission, and before the commencement of the Online Tender Opening Event (TOE) of Technical bid;
- e. Non submission of the Original Bank Guarantee and/or DDs/Pay order against Cost of RfS Document for 255 MW Wind-Solar Hybrid Power Project in India

RfS Document.

- f. Any indication of the tariff quoted, in any part of response to the RfS, other than in the financial bid;
- g. Data filled in the Electronic form of financial bid (Second envelope), not in line with the instructions mentioned in the same electronic form.
- h. In case it is found that the Bidding Company including Ultimate Parent Company / Parent Company/ Affiliate / Group Companies have submitted more than one response to this RfS, then all these bids submitted shall be treated as non-responsive and rejected.

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

3.25. METHOD OF SUBMISSION OF RESPONSE TO RfS BY THE BIDDER

A. Documents to be submitted Offline (in Original)

The Bidder has to submit original of following documents offline.

- i) DD/Pay order or NEFT/RTGS/ details towards Cost of RfS Document as mentioned in Bid Information Sheet.
- ii) Bank Guarantee towards EMD as mentioned in the Bid Information Sheet (as per Format 6.3 A). One EMD may be submitted for the cumulative capacity quoted by the bidder, or individual EMDs may be submitted for each Project.
- iii) Pass-phrases for Techno-commercial and Financial bids submitted on the Bharat- Electronic Tender e-Tendering Portal.

Hard copy of all the original documents should be submitted in TPDDL office, on or before the date of bid submission. DDs/Pay Orders against the cost of RfS document may be submitted in person or via post/courier, as deemed fit by the bidder on or before bid submission deadline.

Bank Guarantee against EMD needs to be submitted in both online and offline modes. The Bidders will be required to submit the bank guarantee, either in person or through post, at the office of TPDDL on or before the closing date of bid submission.

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

For e.g., if the bid submission deadline is 18:00 hrs on 05.01.2021, the deadline for submission of original documents in hard copy at TPDDL office will expire at 15:00 hrs on 05.01.2021. In case of the above deadline being a holiday, the next working day in TPDDL will be the deadline for submission of Bank Guarantees and/or DD/Pay Order against Cost of RfS Document and any other document required to be submitted in original/hard copy.

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

Response to RfS for Setting Up Of 255 MW Wind-Solar Hybrid Power Projects in India with a greenshoe option of additional 255 MW	
Cumulative Capacity of the projects applied for	_____ MW
No. of Projects Bid for	
RfS Reference No.	
Submitted by	(Enter Full name and address of the Bidder)
Authorized Signatory	(Signature of the Authorized Signatory) (Name of the Authorized Signatory) (Stamp of the Bidder)
Bid Submitted to	

B. Documents to be submitted Online

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

If the Bidder has submitted bid online and fails to submit the Bank Guarantee for requisite amount and/or DDs/Pay order against cost of RfS Document or any other required document on or before the last date/time of bid submission, then the same shall be treated as incomplete bid and Cost of RfS shall be encashed and the EMD(s) (if received in hard copy by TPDDL) shall be returned.

All documents of the response to RfS submitted online must be digitally signed and uploaded on the website, Bharat-Electronic Tender e-Tendering PORTAL which should contain the following:

1. “Technical Bid (First Envelope)”

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

- i) Formats- 6.1, 6.2 (if applicable), 6.3 A, 6.4, 6.5 (if applicable), 6.6, 6.8 and 6.9 as elaborated in Clause 3.22;
- ii) All attachments elaborated in Clause 3.22, under the sub-clause 10: Attachments, with proper file names.
- iii) All supporting documents regarding meeting the eligibility criteria.
- iv) Scanned Copies of NEFT/RTGS/DD/Pay order details towards Cost of RfS Document as mentioned in Bid Information Sheet.

- v) Scanned Copies of requisite amount of Bank Guarantee towards EMD as mentioned in the Bid Information Sheet

The Bidder will have to fill the Electronic Form provided at the Bharat-Electronic Tender e-Tendering portal as part of Technical Bid.

Submission of Pass-phrases: In line with Clause 3.23.h above, and Annexure-D, the Bidder shall be required to submit the Pass-Phrase to decrypt the relevant Bid-part is submitted into the 'Time Locked Electronic Key Box (EKB)' after the deadline of Bid submission, and before the commencement of the Online Tender Opening Event (TOE) of Technical bid.

2. "Financial Bid (Second Envelope)"

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

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

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

Important Note:

- (i) The Bidders shall not deviate from the naming and the numbering formats mentioned above, in any manner.
- (ii) In each of the Envelopes, all the documents enclosed shall be indexed and flagged appropriately, with the index list indicating the name of the document against each flag.
- (iii) All the Envelopes shall be properly sealed with the signature of the Authorized Signatory running across the sealing of the envelopes.
- (iv) In case the Bidder submits the online documents on Bharat-Electronic Tender e-Tendering Portal within the bid submission deadlines and fails to submit the offline documents in the office of TPDDL within the bid submission deadlines, the online bid of the Bidder shall not be opened and shall be 'archieved' on the Bharat-Electronic Tender e-Tendering Portal. Similarly, bids submitted offline but without any online submission on Bharat-Electronic Tender e-Tendering Portal shall not be opened and the EMD shall be returned to the respective bidder.
- (v) In case of submission of Bank Guarantee against EMD online on or before the bid submission deadline, and non-submission of the hard copy of the Bank Guarantee to TPDDL within the bid submission deadline, the respective bidder will be debarred from participating in any of the tenders issued by TPDDL, for a period of 6 (six) months, starting from the last date of bid submission of this RfS.**

3.26. NOTICE BOARD FOR DISPLAY

The HPD will have to put a notice board (at least 180cm x 120cm) at its project site main entrance prominently displaying the following message before declaration of COD.

255 MW Wind Solar Hybrid Power Project (s)

Owned and operated by

----- (Insert name of the HPD)

(Under the RfS for Setting Up of 255 MW Wind-Solar Hybrid Power Projects in India by

TATA POWER DELHI DISTRIBUTION LIMITED

**Village:....., Tehsil.....,
District.....**

3.27. NOT USED

3.28. VALIDITY OF THE RESPONSE TO RfS

The Bidder shall submit the response to RfS which shall remain valid up to 240 (Two Hundred forty) days from the last date of submission of response to RfS (“**Bid Validity**”). TPDDL reserves the right to reject any response to RfS which does not meet the aforementioned validity requirement.

3.29. BID PREPARATION COST

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

3.30. CLARIFICATIONS/ PRE BID MEETING/ ENQUIRIES/ AMENDMENTS

- i) Clarifications / Doubts, if any, on RfS document may be emailed and/or through Bharat-Electronic Tender e-Tendering Portal. The format for submission of clarifications is available on the portal.
- ii) TPDDL will make effort to respond to the same in the Pre Bid Meeting to be held as mentioned in the Bid Information Sheet. A compiled list of such questionnaire and TPDDL’s response will be uploaded on the website of Bharat-Electronic Tender e-Tendering Portal. If necessary, amendments, clarifications, elaborations shall be issued by TPDDL which will be notified on TPDDL/ Bharat-Electronic Tender e-Tendering Portal web site. No separate reply/intimation will be given for the above, elsewhere.
- iii) A Pre Bid Meeting shall be held as mentioned in the Bid Information sheet (venue to be notified later on 15.09.2022).
- iv) Enquiries/ clarifications may be sought by the Bidder from:

<u>Name of the Authorized Person of TATA POWER-DDL:</u>	<u>Contact Details:</u>
Shri Lalit Kumar Wasan (HoD- Power Management Group & BESS)	Phone (Off): 011-66050720 Email: lalit.wasan@tatapower-ddl.com ;

Shri Sandeep Kumar HoG- Power Management Group	Phone (Off): 011- 66050652 Email: sandeep.k@tatapower-ddl.com
---	---

3.31. RIGHT OF TATA POWER-DDL TO REJECT A BID

TPDDL reserves the right to reject any or all of the responses to RfS or cancel the RfS or annul the bidding process for any project at any stage without assigning any reasons whatsoever and without thereby any liability. In the event of the tender being cancelled at any stage, EMD submitted by the Bidders shall be returned to the respective Bidders.

3.32. POST LoA COMPLIANCES

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

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

Section 4

BID EVALUATION METHODOLOGY AND SELECTION OF PROJECTS

4.1. BID EVALUATION

The Evaluation Committee will carry out the Bid evaluation by considering the information furnished by Bidders as per provisions specified in Section 3 of this RfS. The detailed evaluation procedure and selection of bidders are described in subsequent clauses in this Section.

4.2. TECHNO-COMMERCIAL EVALUATION OF BIDDERS

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

- a. The first envelope (Technical Bid submitted online) of only those bidders will be opened by TPDDL whose required documents as mentioned at clause 3.25 A are received at TPDDL office. Bid opening (online) will be done only after the deadline for submission of Bank Guarantee and/or DDs/Pay order against Cost of RfS document.
For eg., if the bid submission deadline is 18:00 hrs on 05.04.21, the online bid opening will be conducted on 06.04.21. In case of the above deadline being a holiday, the bids will be opened on the next working day.
- b. Documents (as mentioned in the previous clause) received after the bid submission deadline specified in the Bid Information Sheet shall be rejected and returned unopened, if super-scribed properly with address, to the bidder.
- c. Subject to Clause 3.24, TPDDL will examine all the documents submitted by the Bidders and ascertain meeting of eligibility conditions prescribed in the RfS. During the examination of the bids, TPDDL may seek clarifications / additional documents to the documents submitted etc. from the Bidders if required to satisfy themselves for meeting the eligibility conditions by the Bidders. Bidders shall be required to respond to any clarifications/additional documents sought by TPDDL within 7 (seven) days from the date of such intimation from TPDDL. All correspondence in this regard shall be made through email/ Bharat-Electronic Tender e-Tendering Portal only. It shall be the responsibility of the Bidder to ensure that the email id of the authorized signatory of the Bidder is functional. The Bidder may provide an additional email id of the authorized signatory in the covering letter. No reminders in this case shall be sent. It shall be the sole responsibility of the Bidders to remove all the discrepancies and furnish additional documents as requested. TPDDL shall not be responsible for rejection of any bid on account of the above.
- d. The response to RfS submitted by the Bidder shall be scrutinized to establish techno commercial eligibility as per RfS.

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

- i) In this step evaluations shall be done based on the "Tariff" quoted by the Bidders in the Electronic Form of Financial Bid. After this step, the shortlisted Bidders shall be invited for the Reverse Auction.
- ii) Second Envelope (containing Tariff) of only those Bidders shall be opened whose technical bids are found to be qualified.

Section 5

- iii) The Bidder including its Parent, Affiliate or Ultimate Parent or any Group Company will have to submit bid (single application) quoting a single tariff per kWh, for all the Projects quoted in the bid. Tariff can be quoted up to two places of decimal only. If it is quoted with more than two digits after decimal, the digits after first two decimal places shall be ignored. (For e.g. if the quoted tariff is ₹2.337, then it shall be considered as ₹2.33).
- iv) In this step, evaluation will be carried out based on tariff quoted by the Bidders in INR/kWh.
- v) On completion of Techno-commercial bid evaluation, if it is found that the total aggregate capacity of the Hybrid Power Projects short-listed is lower than or equal to 1400 MW, then the procedure as elaborated in Clause 4.3.3 shall be followed.
- vi) Note: On completion of Techno-commercial bid evaluation, if it is found that only one Bidder is eligible, opening of the financial bid of the Bidder will be at the discretion of TPDDL. Thereafter TPDDL will take appropriate action as deemed fit.
- vii) If the first-round tariff quoted is same for two or more Bidders, then all the Bidders with same tariff shall be considered of equal rank/standing in the order.
- viii) All Bidders who are eligible for the reverse auction shall be decided as per the criteria specified below.
- ix) Ranking of Bidders after Financial Bid Evaluation: Ranking of Bidders shall be done accordingly. For example:

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

4.3. REVERSE AUCTION (STEP-3)

4.3.1. The e-reverse auction shall be conducted on Bharat-Electronic Tender e-Tendering Portal.

Reverse Auction shall be carried out on the day as intimated by TPDDL to the eligible bidders.

4.3.2. Not Used.

4.3.3. The total eligible Bidders for reverse auction shall be decided as mentioned below:

Total eligible Bidders for e-Reverse Auction

T = Total number of techno-commercially qualified Bidders, and

ST= Total bid capacity of techno-commercially shortlisted bidders.

I. In case $ST \leq 1400$ MW: all the techno-commercially qualified bidders whose financial bids are in line with the RfS provisions, will be shortlisted for e-RA.

Section 5

II. In case ST >1400 MW: The highest ranked bidder (H1 bidder) shall be eliminated at this stage, provided that such elimination does not result into techno commercially qualified capacity eligible for participation in reverse auction being less than 1400 MW.

Note:

The above elimination will take place subject to the condition that the total bid capacity after such elimination remains more than /equal to 1400 MW. In the contradictory scenario, no elimination will take place at this stage.

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

Upon shortlisting of bidders for e-RA, if it is found that more than the eligible bidders shortlisted for e-RA have quoted the same tariff, ranking of bidders to be indicated in the e-RA window shall be decided based on draw of lots.

- 4.3.4. At least one week prior to reverse auction, an advance intimation regarding the date and time of the e-Reverse Auction will be sent to by email to all Bidders whose technical bids have been opened and found to be qualified. However, from this advance intimation it shall not be construed by the bidders that they have been shortlisted for e-Reverse Auction. Further at least two hours before the schedule start time of e-Reverse Auction, final intimation for participation in the e-RA will be sent to all those bidders only who have been shortlisted based on the criteria mentioned at 4.3.3.
- 4.3.5. Shortlisted bidders for Reverse Auction will be able to login into the Bharat-Electronic Tender e-Tendering **Portal** website of reverse auction 15 minutes before the start time of reverse auction.
- i) During the 15 minutes prior to start of reverse auction process, the respective tariff along with the total project capacity of the bidder shall be displayed on its window.
 - ii) The minimum decrement value for tariff shall be ₹ 0.01 per kWh. The bidder can mention its revised tariff which has to be at least 01 (one) paisa less than its current tariff.
 - iii) Bidders can only quote any value lower than their previous quoted tariff taking into consideration the minimum decrement value mentioned in the previous clause. However, at any stage, increase in tariff will not be permissible. Bidders can improve their ranking by quoting the tariff lower than their last quoted tariff.
 - iv) During reverse auction, the bidder shall not have the option of changing the total project capacity while quoting tariff during reverse auction.
 - v) In the bidder's bidding window, the following information can be viewed by the bidder:
 - a. Its tariff as their initial start price and there after last quoted tariff along with project capacity for which the bidder is qualified;
 - b. The list of all the bidders with their following details: Pseudo Identity, last quoted tariff and project capacity
 - vi) The initial auction period will be of 30 (thirty) minutes with a provision of auto extension by 8 (Eight) minutes from the scheduled/ extended closing time. If no such change is effected during the last 8 minutes of auction period or extended auction period, then the reverse auction process will automatically get closed.

4.4. SELECTION OF SUCCESSFUL BIDDERS

- 4.4.1. After the conclusion of the bidding process, the Evaluation Committee will critically evaluate the bids and certify as appropriate, that the bidding and evaluation processes have been concluded in conformity to the provisions of the RfS.

Section 5

- 4.4.2. The bidders shall be selected in the ascending order with lowest quoted tariff (being L1) and so on till the total capacity is exhausted.
- 4.4.3. The lowest quoting Bidder will be allotted its qualified project capacity and then, next higher Bidder will be allotted its qualified project capacity and so on, till the total project capacity is exhausted.
- 4.4.4. In case of the last selected bidder, if the balance project capacity is less than the total project capacity mentioned by the bidder, then the balance capacity shall be awarded to the bidder till the total capacity (i.e. 255 MW with a greenshoe option of additional 255 MW) is exhausted. However, if the allocated capacity is less than the 50% of the offered capacity by the bidder then right to refusal shall lie with the bidder. In case the last selected bidder opts for right of refusal as stated above, the bidder shall intimate TPDDL about its refusal within seven working days after e- Reverse Auction event in writing. In the event of failure to do so, the bidder shall be deemed to have accepted the capacity awarded to it. In the event of refusal or failure by the bidder to accept the offered capacity, the balance capacity will be offered to the next eligible bidders at TPDDL's discretion.
- 4.4.5. Time Stamping: In case of tie, among two or more bidders (i.e. their last quoted tariff being the same) they will be considered in the chronological order of their last bid with preference to that bidder who has quoted his last bid earlier than others.

In the above case (as mentioned in previous Section), if the time of quote also become exactly same among the bidders at a tie, then the ranking among these bidders shall be done as follow:

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

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

- 4.4.6. In case the partial capacity offered to the last Successful Bidder as per (4.4.3) above, is greater than or equal to 50% of the total quoted capacity by such Bidder, it shall be mandatory for the last Bidder to accept the partial capacity offered against its quoted capacity, subject to the total cumulative capacity awarded under the RfS not exceeding 255 MW with a greenshoe option of additional 255 MW. In case the last Successful Bidder refuses to accept such partial capacity offered by TPDDL, the Bank Guarantee(s) against EMD submitted by such Bidder may be encashed by TPDDL.
- 4.4.7. **Issuance of LOA:** At the end of selection process, a Letter of Award (LOA) will be issued to the successful Bidders for each Project. In case Consortium being selected as successful Bidder, the LOA shall be issued to the Lead Member of the Consortium.

Section 5

OTHER PROVISIONS

- 5.1. Not used**
- 5.2. Not used**

Section 6

FORMATS FOR BID SUBMISSION

The following formats are required to be submitted as part of the RfS. These formats are designed to demonstrate the Bidder's compliance with the Qualification Requirements set forth in Clause 3.5, 3.6, 3.7 of Section 3 and other submission requirements specified in the RfS.

- i) Format of Covering Letter (Format 6.1)
- ii) Format of Power of Attorney (Format 6.2)
- iii) Format of Earnest Money Deposit (EMD) (Format 6.3 A)
- iv) Format of Performance Bank Guarantee (Format 6.3 B) (to be submitted prior to signing of PPA)
- v) Format of Board Resolutions (Format 6.4)
- vi) Format of the Consortium Agreement (Format 6.5)
- vii) Format of Financial Requirement (Format 6.6)
- viii) Undertaking w.r.t. no event of default (Format 6.7)
- ix) Format of Disclosure (Format 6.8)
- x) Format of Commitment to Financial Closure (Format 6.9)
- xi) Format of Proposed Technology Tie-up (Format 6.10)
- xii) Format of submission of financial bid (Formats 6.11)
- xiii) Break-up of Estimated Project Cost (Format 6.11 A)
- xiv) Technical Requirements for Grid Connected Wind Power Projects (Annexure - A)
- xv) Check List for Bank Guarantees (Annexure-B)
- xvi) Special Instructions to Bidders for e-Tendering and Reverse Auction (Annexure-C)
- xvii) Checklist for Financial Closure (Annexure-D)

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

FORMAT-6.1
Covering Letter

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

Date:

Reference No: _____

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

Tel. #:

Fax #:

E-mail address#

To

Sub: Response to RfS No. _____ dated _____ for Setting Up of 255 MW Wind-Solar Hybrid Power Projects with a greenshoe option of additional 255 MW

Dear Sir,

We, the undersigned [insert name of the 'Bidder'] having read, examined and understood in detail the RfS including qualification requirements in particular, terms and conditions of the standard PPA for supply of power for 25 years to TPDDL and terms hereby submit our response to RfS. We confirm that in response to the aforesaid RfS, neither we nor any of our Ultimate Parent Company/ Parent Company/ Affiliate/ Group Company has submitted response to RfS other than this response to RfS, directly or indirectly, in response to the aforesaid RfS (as mentioned in Format 6.8 under Disclosure). We also confirm that we including our Ultimate Parent Company / Parent Company / Affiliate / Group Companies directly or indirectly have not submitted response to RfS for more than cumulative capacity of **255 MW with a greenshoe option of additional 255 MW** including this response to RfS.

We are submitting application for the development of following Wind-Solar hybrid Power Project(s): -

Project No.	Capacity (MW)	Location of Project (Village, Tehsil, Dist., State)	Interconnection Point Details	Proposed CUF	Project Preference *

**The preferences of the Projects shall be considered only for the last successful bidder whose total quoted capacity is more than the balance capacity. In this case, allocation will be done as described in Clause 4.4.3 (Note: The Bidder must ensure the project capacity mentioned should be more than or equal to 50 MW for each Project. Delete/Insert rows as applicable)*

1. We give our unconditional acceptance to the RfS, dated and standard PPA attached thereto, issued by TPDDL. In token of our acceptance to the RfS, PPA along with the amendments and clarifications issued by TPDDL, the same have been digitally signed by us and enclosed with the response to RfS. We shall ensure that the PPA is executed as per the provisions of the RfS, and provisions of PPA shall be binding on us. Further, we confirm that the Project shall be commissioned within the deadline as per clause provisions of the RfS. We further undertake that we shall demonstrate possession of 100% area of the identified land, within the timelines as per the RfS.
2. Earnest Money Deposit (EMD): - *(Please read Clause 3.11 carefully before filling)*

We have enclosed EMD of Rs. (Insert Amount) in the form of bank guarantee no.....

[Insert bank guarantee number] dated [Insert date of bank guarantee] as per Format 6.3A from [Insert name of bank providing bank guarantee] and valid up to.....in terms of Clause 3.11 of this RfS. The total capacity of the Wind-Solar hybrid Power Project offered by us is MW [Insert cumulative capacity proposed].

3. We hereby declare that in the event our Project(s) get selected and we are not able to submit Bank Guarantee of the requisite value(s) towards PBG for the selected Projects within due time as mentioned in 3.11 (ii), on issue of LOA by TPDDL for the selected Projects and/or we are not able to sign PPA with TPDDL within 90 days from date of issue of LOA or as intimated by TPDDL for the selected Projects, TPDDL shall have the right to encash the EMD submitted by us, as applicable, and return the balance amount (if any) for the value of EMD pertaining to unsuccessful capacity.
4. We have submitted our response to RfS strictly as per Section – 6 (Formats) of this RfS, without any deviations, conditions and without mentioning any assumptions or notes in the said Formats.
5. We hereby declare that during the selection process, in the event our bid happens to be the last bid in the list of successful bids and TPDDL offers a capacity which is greater than or equal to 50% of our quoted capacity due to overall bid capacity limit, we shall accept such offered capacity.
6. Acceptance
We hereby unconditionally and irrevocably agree and accept that the decision made by TPDDL in respect of any matter regarding or arising out of the RfS shall be binding on us. We hereby expressly waive and withdraw any deviations and all claims in respect of this process.
We also unconditionally and irrevocably agree and accept that the decision made by TPDDL in respect of award of Projects according to our preference order as above and in line with the provisions of the RfS, shall be binding on us.
7. Familiarity with Relevant Indian Laws & Regulations:
We confirm that we have studied the provisions of the relevant Indian laws and regulations as required to enable us to submit this response to RfS, execute the PPA in the event of our selection as successful Bidder.
8. In case of our selection as the successful Bidder under the scheme and the project being executed by a Special Purpose Vehicle (SPV) incorporated by us, such SPV shall be our subsidiary, we shall infuse necessary equity to the requirements of RfS. Further we will submit a Board Resolution prior to signing of PPA with TPDDL, committing total equity infusion in the SPV as per the provisions of RfS.
9. We are submitting our response to the RfS with formats duly signed as desired by TPDDL in the RfS online for your consideration.
10. It is confirmed that our response to the RfS is consistent with all the requirements of submission as stated in the RfS, including all clarifications and amendments and subsequent communications from TPDDL.
11. The information submitted in our response to the RfS is correct to the best of our knowledge and understanding. We would be solely responsible for any errors or omissions in our response to the RfS.
12. We confirm that all the terms and conditions of our Bid are valid up to _____ (Insert date in dd/mm/yyyy) for acceptance (i.e. a period of two hundred and forty (240) days from the last date of submission of response to RfS).

13. Contact Person

Details of the representative to be contacted by **TATA POWER-DDL** are furnished as under:

Name :

Designation :

Company :
Address :
Phone Nos. :
Mobile Nos. :
Fax Nos. :
E-mail address :

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

Dated the _____ day of _____, 20...

Thanking you,

Yours faithfully,

(Name, Designation and Signature of Person Authorized by the board as per Clause 3.22 (5) (a))

FORMAT-6.2

(Applicable only in case of Consortiums)

Format of Power of Attorney

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

POWER OF ATTORNEY

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

KNOW ALL MEN BY THESE PRESENTS THAT M/s.....having its registered office at ,and M/s having its registered office at , (Insert names and registered offices of all Members of the Consortium) the Members of Consortium have formed a Bidding Consortium named..... (insert name of the Consortium if finalized) (hereinafter called the 'Consortium') vide Consortium Agreement dated..... and having agreed to appoint M/s.....as the Lead Member of the said Consortium do hereby constitute, nominate and appoint M/s.....a company incorporated under the laws ofand having its Registered /Head Office atas our duly constituted lawful Attorney (hereinafter called as Lead Member) to exercise all or any of the powers for and on behalf of the Consortium in regard to submission of the response to RfS No.....

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

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

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

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

IN WITNESS WHEREOF M/s , as the Member of the Consortium have executed these presents on this..... day ofunder the Common Seal of our company. For and on behalf of Consortium Member

M/s.....

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

(Name Designation Place: Date:)

Accepted

(Signature, Name, Designation and Address of the person authorized by the board of the Lead Member)

Attested

(Signature of the executant)

(Signature & stamp of Notary of the place of execution) Place: ----- Date: -----

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

FORMAT-6.3 A

Format of Earnest Money Deposit

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

_____ Bank Guarantee No. _____

Date: _____

In consideration of the -----[Insert name of the Bidder] (hereinafter referred to as 'Bidder') submitting the response to RfS inter alia for selection of the Project/Projects of the cumulative capacity of MW [Insert cumulative Project capacity proposed] under RfS for Setting Up of 255 MW Wind-Solar Hybrid Power Projects with a greenshoe option of additional 255 MW for supply of power there from on long term basis, in response to the RfS No. _____

dated _____ issued by Tata Power Delhi Distribution Limited (hereinafter referred to as TPDDL) and TPDDL

considering such response to the RfS of.....[insert the name of the Bidder] as per the terms of the RfS, the _____ [insert name & address of bank] hereby agrees unequivocally, irrevocably and unconditionally to pay to TPDDL at [Insert Name of the Place from the address of TPDDL] forthwith on demand in writing from TPDDL or any Officer authorized by it in this behalf, any amount up to and not exceeding Rupees

-----[Insert amount not less than that derived on the basis of Rs. 5 Lakhs per MW of cumulative capacity proposed, only, on behalf of M/s. _____ [Insert name of the Bidder] .

This guarantee shall be valid and binding on this Bank up to and including _____ [insert date of validity in accordance with Clause 3.11 of this RfS] and shall not be terminable by notice or any change in the constitution of the Bank or the term of contract or by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between parties to the respective agreement.

Our liability under this Guarantee is restricted to Rs. _____ (Rs. _____ only). Our Guarantee shall remain in force until _____ [insert date of validity in accordance with Clause 3.11 of this RfS]. TPDDL shall be entitled to invoke this Guarantee till _____ [insert date of validity in accordance with Clause 3.11 of this RfS].

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

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

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

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

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

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

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

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

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to Rs. _____ (Rs. _____ only) and it shall remain in force until _____ [Date to be inserted on the basis of Clause 3.11 of this RfS]. We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if TPDDL serves upon us a written claim or demand.

Signature _____ Name _____ Power of Attorney No. _____

For
_____ [Insert Name of the Bank] _____

E-mail ID of the bank:

Banker's Stamp and Full Address. Dated this ____ day of ____, 20__

FORMAT-6.3 B

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

(to be submitted separately for each Project)

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

In consideration of the ----- [Insert name of the Bidder] (hereinafter referred to as selected Hybrid Power Developer') submitting the response to RfS inter alia for selection of the Project of the capacity of MW, at[Insert name of the place] under **RfS for Setting Up of 255 MW Wind-Solar Hybrid Power Projects with a greenshoe option of additional 255 MW**, for supply of power there from on long term basis, in response to the RfS dated..... issued by Tata Power Delhi Distribution Limited (hereinafter referred to as TPDDL) and TPDDL considering such response to the RfS of[insert the name of the selected Hybrid Power Developer] (which expression shall unless repugnant to the context or meaning thereof include its executors, administrators, successors and assignees) and selecting the Hybrid Power Project of the Hybrid Power Developer and issuing Letter of Award No ----- to (Insert Name of selected Hybrid Power Developer) as per terms of RfS and the same having been accepted by the selected HPD resulting in a Power Purchase Agreement (PPA) to be entered into, for purchase of Power [from selected Hybrid Power Developer or a Project Company, M/s ----- {a Special Purpose Vehicle (SPV) formed for this purpose}, if applicable]. As per the terms of the RfS, the _____[insert name & address of bank] hereby agrees unequivocally, irrevocably and unconditionally to pay to TPDDL at [Insert Name of the Place from the address of the TPDDL] forthwith on demand in writing from TPDDL or any Officer authorized by it in this behalf, any amount up to and not exceeding Rupees----- [Total Value] only, on behalf of M/s _____ [Insert name of the selected Hybrid Power Developer / Project Company]

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

Our liability under this Guarantee is restricted to Rs. _____ only.

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

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

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

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

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

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

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

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

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

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

Signature _____ Name_____ Power of Attorney No._____

For
_____[Insert Name of the Bank]__

E-mail ID of the bank:

Banker's Stamp and Full Address. Dated this__day of __, 20__

Witness:

1. Signature
Name and Address

2. Signature
Name and Address

Notes:

1. The Stamp Paper should be in the name of the Executing Bank and of appropriate value.
2. The Performance Bank Guarantee shall be executed by any of the Bank from the List of Banks mentioned in draft PPA.

FORMAT-6.4

Format of Board Resolutions

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

- 1. RESOLVED THAT** Mr/Ms....., be and is hereby authorized to do on our behalf, all such acts, deeds and things necessary in connection with or incidental to our response to RfS vide RfS No. dated _____ for "Setting Up of 255 MW Wind-Solar Hybrid Power Projects in India with a greenshoe option of additional 255 MW", including signing and submission of all documents and providing information / response to RfS to Tata Power Delhi Distribution Limited (TPDDL), representing us in all matters before TPDDL, and generally dealing with TPDDL in all matters in connection with our bid for the said Project. **(To be provided by the Bidding Company or the Lead Member of the Consortium)**
- 2. FURTHER RESOLVED THAT** pursuant to the provisions of the Companies Act, 1956 or Companies Act, 2013, as applicable and compliance thereof and as permitted under the Memorandum and Articles of Association of the Company, approval of the Board be and is hereby accorded to invest total equity in the Project. **(To be provided by the Bidding Company)**

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

FURTHER RESOLVED THAT pursuant to the provisions of the Companies Act, 1956 or Companies Act, 2013, as applicable and compliance thereof and as permitted under the Memorandum and Articles of Association of the Company, approval of the Board be and is hereby accorded to invest (-----%) equity [Insert the % equity commitment as specified in Consortium Agreement] in the Project. **(To be provided by each Member of the Bidding Consortium including Lead Member such that total equity is 100%)**

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

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

Certified true copy

(Signature, Name and stamp of Company Secretary)

Notes:

- 1) This certified true copy should be submitted on the letterhead of the Company, signed by the Company Secretary/ Director.
- 2) The contents of the format may be suitably re-worded indicating the identity of the entity passing the resolution.
- 3) This format may be modified only to the limited extent required to comply with the local regulations and laws applicable to a foreign entity submitting this resolution. For example, reference to Companies Act, 1956 or Companies Act, 2013 as applicable may be suitably modified to refer to the law applicable to the entity submitting the resolution. However, in such case, the foreign entity shall submit an unqualified opinion issued by the legal counsel of such foreign entity, stating that the Board resolutions are in compliance with the applicable laws of the respective jurisdictions of the issuing Company and the authorizations granted therein are true and valid.

FORMAT-6.5

Format of Consortium Agreement

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

THIS Consortium Agreement ("Agreement") executed on this _____ day of _____ Two thousand _____ between M/s [insert name of Lead

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

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

_____ (hereinafter called the "**Member-n**", which expression shall include its successors, executors and permitted assigns), [The Bidding Consortium should list the details of all the Consortium Members] for the purpose of submitting response to RfS execution of Power Purchase Agreement (in case of award), against RfS No. _____ dated _____ issued by Tata Power Delhi Distribution Limited (TPDDL) a Company incorporated under the Companies Act, 1956 or Companies Act, 2013 as applicable, and having its Registered Office at _____ or _____ constituted under

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

WHEREAS TPDDL desires to purchase power under RfS for Setting Up of 255 MW Wind-Solar Hybrid Power Projects with a greenshoe option of additional 255 MW.

WHEREAS, TPDDL had invited response to RfS vide its Request for Selection (RfS) dated _____

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

NOW THEREFORE, THIS AGREEMENT WITNESSTH AS UNDER:

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

1. We, the Members of the Consortium and Members to the Agreement do hereby unequivocally agree that Member-1 (M/s _____), shall act as the Lead Member as defined in the RfS for self and agent for and on behalf of Member-2, ----, Member n and to submit the response to the RfS.
2. The Lead Member is hereby authorized by the Members of the Consortium and Members to the Agreement to bind the Consortium and receive instructions for and on their behalf.

3. Notwithstanding anything contrary contained in this Agreement, the Lead Member shall always be liable for the equity investment obligations of all the Consortium Members i.e. for both its own liability as well as the liability of other Members.
4. The Lead Member shall be liable and responsible for ensuring the individual and collective commitment of each of the Members of the Consortium in discharging all of their respective equity obligations. Each Member further undertakes to be individually liable for the performance of its part of the obligations without in any way limiting the scope of collective liability envisaged in this Agreement.
5. Subject to the terms of this Agreement, the share of each Member of the Consortium in the issued equity share capital of the Project Company is/shall be in the following proportion:-

Name	Percentage
Member 1	---
Member 2	---
Member n	---
Total	100%

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

6. The Lead Member, on behalf of the Consortium, shall inter alia undertake full responsibility for liaising with Lenders or through internal accruals and mobilizing debt resources for the Project, and ensuring that the Seller achieves Financial Closure in terms of the PPA.
7. In case of any breach of any equity investment commitment by any of the Consortium Members, the Lead Member shall be liable for the consequences thereof.
8. Except as specified in the Agreement, it is agreed that sharing of responsibilities as aforesaid and equity investment obligations thereto shall not in any way be a limitation of responsibility of the Lead Member under these presents.
9. It is further specifically agreed that the financial liability for equity contribution of the Lead Member shall not be limited in any way so as to restrict or limit its liabilities. The Lead Member shall be liable irrespective of its scope of work or financial commitments.
10. This Agreement shall be construed and interpreted in accordance with the Laws of India and courts at [----] alone shall have the exclusive jurisdiction in all matters relating thereto and arising thereunder..
11. It is hereby further agreed that in case of being selected as the Successful Bidder, the Members do hereby agree that they shall furnish the Performance Guarantee in favour of TPDDL in terms of the RfS.
12. It is further expressly agreed that the Agreement shall be irrevocable and shall form an integral part of the Power Purchase Agreement (PPA) and shall remain valid until the expiration or early termination of the PPA in terms thereof, unless expressly agreed to the contrary by TPDDL.
13. The Lead Member is authorized and shall be fully responsible for the accuracy and veracity of the representations and information submitted by the Members respectively from time to time in the response to RfS.

14. It is hereby expressly understood between the Members that no Member at any given point of time, may assign or delegate its rights, duties or obligations under the PPA except with prior written intimation to TPDDL.
15. This Agreement
- a) has been duly executed and delivered on behalf of each Member hereto and constitutes the legal, valid, binding and enforceable obligation of each such Member;
 - b) sets forth the entire understanding of the Members hereto with respect to the subject matter hereof; and
 - c) may not be amended or modified except in writing signed by each of the Members and with prior written consent of TPDDL.
16. All the terms used in capitals in this Agreement but not defined herein shall have the meaning as per the RfS and PPA.

IN WITNESS WHEREOF, the Members have, through their authorized representatives, executed these present on the Day, Month and Year first mentioned above. For M/s----- [Member 1]

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

Witnesses:

1) Signature-----

Name:

Address: Address:

2) Signature -----

Name:

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

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

Witnesses:

1) Signature -----

Name:

Address: Address:

2) Signature -----

Name:

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

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

Witnesses:

1) Signature -----

Name: Address:

(2) Signature -----

Name: Address:

Signature and stamp of Notary of the place of execution

FORMAT-6.6

Format of Financial Requirement [on the letter head of Bidder]

To,

[Insert name and address of TPDDL] Dear Sir,

Sub: **Response to RfS No. _____ dated _____ for Selection of 255 MW Wind-Solar Hybrid Power Project with a greenshoe option of additional 255 MW.**

We certify that the Bidding Company/Member in a Bidding Consortium has a Net Worth of Rs. Cr. (.....in words) as on **the end of Financial Year 2021-22 or as on the date at least 7 days prior to bid submission deadline.**

This Net Worth has been calculated in accordance with instructions provided in Clause 3.5.9 C of the RfS as amended.

Exhibit (i): Applicable in case of Bidding Company

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

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

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

Exhibit (ii): Applicable in case of Bidding Consortium

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

Name of Member: [Insert name of the Member]

Net Worth Requirement to be met by Member in Proportion to the Equity Commitment: Rs.-----

-----Crore (Equity Commitment (%) * Rs. [] Crore)

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

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

Total					

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

(Signature & Name of the Authorized Signatory)

**(Signature and Stamp of
Chartered Accountant) Membership No.
Regn. No. of the CA's Firm:
Date:**

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

FORMAT-6.7

Undertaking

(To be submitted on the letterhead of the Bidder)

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

(Name and Signature of the Authorized Signatory)

FORMAT-6.8

Format of Disclosure

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

Disclosure

We hereby declare and confirm that only we are participating in the RfS Selection process for the RfS No. _____ dated _____ and that our Parent, Affiliate or Ultimate Parent or any Group Company with which we have direct or indirect relationship are not separately participating in this selection process.

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

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

Date:

FORMAT-6.9
Format of Commitment to Financial Closure

(On the letter head of the Bidder)

(to be submitted separately for each Project)

To,

[Insert name and address of TPDDL]

Dear Sir,

Sub: Response to RfS No. _____ dated _____ for Setting Up of 255 MW Wind-Solar Hybrid Power Project with a greenshoe option of additional 255 MW.

We hereby undertake to certify in line with **Clause 3.16** under the title “Financial Closure” that the following details shall be furnished within **12 (Twelve) months** from the date of signing of the PPA:

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

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

(Signature & Name of the Authorized Signatory)

FORMAT-6.10

Declaration by the Bidder for the Proposed Technology Tie-up (To be Submitted Separately for each Hybrid Project)

1	Name of Bidding Company/ Lead Member of Bidding Consortium		
2	Name of the Technology Partner (if any)		
3	Project Location (Village(s), Tehsil, Dist., State)		
4.A	Hybrid Project Capacity Proposed MW	
4.B	Capacity Breakup (for the purpose of LTA) i.e. Total Project capacity (AC) MW= Solar Capacity (AC)+Wind Capacity (AC)MW	Wind.....MW(AC) Solar.....MW(AC)	
5.A	Estimated Annual Generation of Electrical Energy from Solar component of Hybrid Project	kWh
5.B	Estimated Annual Generation of Electrical Energy from Wind component of Hybrid Project	kWh
7	Brief about the Proposed Technology		
Solar	Crystalline Silicon Solar Cells and Modules		
	Concentrator PV Modules		
	Thin Film Modules		
	Any Other Technology		
Wind	Wind Turbine(s) Models from RLMM		

Dated the _____ day of _____, 20....

Thanking you, We remain,

Yours faithfully, Name, Designation, Seal and Signature of Authorized Person in whose name Power of Attorney/ Board Resolution/ Declaration.

FORMAT-6.11
Financial Proposal

Covering Letter
(On Bidder's Letter head)

[Date and
Reference]
To,

Sub: Response to RfS No. _____ dated _____ for Setting Up of 255 MW Wind-Solar Hybrid Power Project with a greenshoe option of additional 255 MW.

Dear Sir,

I/ We, _____ (Applicant's name) enclose herewith the Financial

Proposal for selection of my / our firm for a cumulative capacity of _____ MW as Bidder for above.
I/ We agree that this offer shall remain valid for a period of 240 (Two Hundred and Forty) days from the due date of submission of the response to RfS or such further period as may be mutually agreed upon.

Note:

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

Authorized Signature

Name & Designation

Address of the
Bidder

FORMAT-6.11 A

Preliminary Estimate of Cost of Wind-Solar Hybrid Power Project

(To be submitted separately for each Project) Project Capacity:MW

Location:

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

(Signature)
(Name of Bidder)

Annexure-A

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

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

Annexure- B

Check list for Bank Guarantees

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

Annexure – C

SPECIAL INSTRUCTIONS TO BIDDERS FOR e-TENDERING AND REVERSE AUCTION

GENERAL

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

e-Tendering is a new methodology for conducting Public Procurement in a transparent and secured manner. Now, the Government of India has made e-Tendering mandatory. Suppliers/ Vendors will be the biggest beneficiaries of this new system of procurement. For conducting electronic tendering Tata Power Delhi Distribution Limited (TATA POWER-DDL) has adopted a secured and user friendly e-tender system enabling bidders to Search, View, Download tender document(s) directly from e-tendering portal of I Bharat-Electronic Tender

Benefits to Suppliers are outlined on the Home-page of the portal.

INSTRUCTIONS

Tender Bidding Methodology:

Sealed Bid System

Single Stage Two Envelope

Auction

The sealed bid system would be followed by an 'e-Reverse Auction'

Broad Outline of Activities from Bidder's Perspective:

1. Procure a Class III Digital Signing Certificate (DSC).
2. Register on Bharat-Electronic Tender e-Tendering Portal.
3. Create Marketing Authorities (MAs), Users and assign roles on Bharat-Electronic Tender e-Tendering Portal. It is mandatory to create at least one MA
4. View Notice Inviting Tender (NIT) on Bharat-Electronic Tender e-Tendering Portal
5. For this tender -- Assign Tender Search Code (TSC) to a MA
6. Download Official Copy of Tender Documents from Bharat-Electronic Tender e-Tendering Portal. Note: Official copy of Tender Documents is distinct from downloading 'Free Copy of Tender Documents'. To participate in a tender, it is mandatory to procure official copy of Tender Documents for that tender.
7. Clarification to Tender Documents on Bharat-Electronic Tender e-Tendering Portal
 - a) Query to Bidders (Optional)
 - b) View response to queries posted by TATA POWER-DDL
8. Bid-Submission on Bharat-Electronic Tender e-Tendering Portal.
9. Respond to TATA POWER-DDL Post-TOE queries
10. Participate in e-Reverse Auction if invited

For participating in this tender online, the following instructions are to be read carefully. These instructions are supplemented with more detailed guidelines on the relevant screens of the Bharat-Electronic Tender e-Tendering Portal .

Digital Certificates

For integrity of data and authenticity/ non-repudiation of electronic records, and to be compliant with IT

Act 2000, it is necessary for each user to have a Digital Certificate (DC), also referred to as Digital Signature Certificate (DSC), of Class III, issued by a Certifying Authority (CA) licensed by Controller of Certifying Authorities (CCA) [refer <http://www.cca.gov.in>].

Registration

To use the Bharat-Electronic Tender e-Tendering Portal vendors need to register on the portal. Registration of each organization is to be done by one of its senior persons who will be the main person coordinating for the e-tendering activities. In Bharat-Electronic Tender e-Tendering Portal terminology, this person will be referred to as the Super User (SU) of that organization. For further details, please visit the website/ portal, and click on the 'Supplier Organization' link under 'Registration' (on the Home Page), and follow further instructions as given on the site. Pay Annual Registration Fee as applicable.

After successful submission of Registration details and payment of Annual Registration Fee, please contact Bharat-Electronic Tender e-Tendering Portal Helpdesk (as given below), to get your registration accepted/ activated.

Important Note:

1. Interested bidders have to download official copy of the RfS & other documents after login into the e-tendering Portal of Bharat-Electronic Tender. If the official copy of the documents is not downloaded from e-tendering Portal of Bharat-Electronic Tender e-Tendering Portal within the specified period of downloading of RfS and other documents, bidder will not be able to participate in the tender.
2. To minimize teething problems during the use of Bharat-Electronic Tender e-Tendering Portal (including the Registration process), it is recommended that the user should peruse the instructions given under 'Bharat-Electronic Tender e-Tendering Portal User-Guidance Centre' located on Bharat-Electronic Tender e-Tendering Portal Home Page, including instructions for timely registration on Bharat-Electronic Tender e-Tendering Portal. The instructions relating to 'Essential Computer Security Settings for Use of Bharat-Electronic Tender e-Tendering Portal' and 'Important Functionality Checks' should be especially taken into cognizance.

Please note that even after acceptance of your registration by the Service Provider, to respond to a tender you will also require time to complete activities related to your organization, such as creation of users, assigning roles to them, etc.

Bharat-Electronic Portal / Helpdesk	
Telephone/ Mobile	Land line-0124-4229071/72
Email-ID	support@isn-ets.com

Some Bidding Related Information for this Tender (Sealed Bid)

The entire bid-submission would be online on Bharat-Electronic Tender e-Tendering Portal (unless specified for Offline Submissions). Broad outline of submissions are as follows:

Submission of Bid-Parts

- Envelope I (Technical-Bid)
- Envelope II (Financial-Bid)

Submission of digitally signed copy of Tender Documents/ Addendum

In addition to the above, the bidders are required to submit certain documents physically offline also as per Clause 3.25 of RfS Documents, failing which the technical bids will not be opened.

Note: The Bidder should also upload the scanned copies of all the above mentioned original documents as Bid-Annexures during Online Bid-Submission.

Internet Connectivity

If bidders are unable to access Bharat-Electronic Tender Portal's e-tender portal or Bid Documents, the bidders may please check whether they are using proxy to connect to internet or their PC is behind any firewall and may contact their system administrator to enable connectivity. Please note that Port SSL/ 443 should be enabled on proxy/firewall for HTTPS connectivity. Dial-up/ Broad and internet connectivity without Proxy settings is another option

SPECIAL NOTE ON SECURITY AND TRANSPARENCY OF BIDS

Security related functionality has been rigorously implemented in Bharat-Electronic Tender e-Tendering Portal in a multidimensional manner. Starting with 'Acceptance of Registration by the Service Provider', provision for security has been made at various stages in Electronic Tender's software. Specifically, for Bid Submission, some security related aspects are outlined below:

As part of the Electronic Encrypted[®] functionality, the contents of both the 'Electronic Forms[®]' and the 'Main-Bid' are securely encrypted using a Pass-Phrase created by the Bidder himself. Unlike a 'password', a Pass-Phrase can be a multi-word sentence with spaces between words (e.g. I love this World). A Pass-Phrase is easier to remember, and more difficult to break. It is mandatory that a separate Pass-Phrase be created for each Bid-Part. This method of bid- encryption does not have the security and data-integrity related vulnerabilities which are inherent in e-tendering systems which use Public-Key of the specified officer of a Buyer organization for bid-encryption. Bid-encryption in Bharat-Electronic Tender e-Tendering Portal is such that the Bids cannot be decrypted before the Public Online Tender Opening Event (TOE), even if there is connivance between the concerned tender-opening officers of the Buyer organization and the personnel of e-tendering service provider.

CAUTION: All bidders must fill Electronic Forms[®] for each bid-part sincerely and carefully, and avoid any discrepancy between information given in the Electronic Forms[®] and the corresponding Main-Bid. For transparency, the information submitted by a bidder in the Electronic Forms[®] is made available to other bidders during the Online Public TOE. If it is found during the Online Public TOE that a bidder has not filled in the complete information in the Electronic Forms[®], the TOE officer may make available for downloading the corresponding Main- Bid of that bidder at the risk of the bidder. **If variation is noted between the information contained in the Electronic Forms[®] and the 'Main-Bid', the contents of the Electronic Forms[®] shall prevail.**

In case of any discrepancy between the values mentioned in figures and in words, the value mentioned in words will prevail.

The bidder shall make sure that the Pass-Phrase to decrypt the relevant Bid-Part is submitted into the 'Time Locked Electronic Key Box (EKB)' after the deadline of Bid Submission, and before the commencement of the Online TOE of Technical Bid. The process of submission of this Pass-Phrase in the 'Time Locked Electronic Key Box' is done in a secure manner by first encrypting this Pass-Phrase with the designated keys provided by TATA POWER-DDL.

Additionally, the bidder shall make sure that the Pass-Phrase to decrypt the relevant Bid-Part is submitted to TATA POWER-DDL in a sealed envelope before the start date and time of the Tender Opening Event (TOE).

There is an additional protection with SSL Encryption during transit from the client-end computer of a Supplier organization to the e-Tendering Server/ Portal.

OTHER INSTRUCTIONS

For further instructions, the vendor should visit the home-page of the portal -----
--, and go to the **User-Guidance Center**

The help information provided through Bharat-Electronic Tender e-Tendering Portal User-Guidance Center' is available in three categories – Users intending to Register/ First-Time Users, Logged-in users of Buyer organizations, and Logged-in users of Supplier organizations. Various links (including links for User Manuals) are provided under each of the three categories.

Important Note: It is strongly recommended that all authorized users of Supplier organizations should thoroughly peruse the information provided under the relevant links, and take appropriate action. This will prevent hiccups, and minimize teething problems during the use of Bharat-Electronic Tender e-Tendering Portal.

SEVEN CRITICAL DO'S AND DON'TS FOR BIDDERS

Specifically, for Supplier organizations, the following '**SEVEN KEY INSTRUCTIONS for BIDDERS**' must be assiduously adhered to:

1. Obtain individual Digital Signing Certificate (DSC or DC) of Class III well in advance of your tender submission deadline on Bharat-Electronic Tender e-Tendering Portal.
2. Register your organization on Bharat-Electronic Tender e-Tendering Portal well in advance of the important deadlines for your first tender on Bharat-Electronic Tender e-Tendering Portal viz 'Date and Time of Closure of Procurement of Tender Documents' and 'Last Date and Time of Receipt of Bids'. Please note that even after acceptance of your registration by the Service Provider, to respond to a tender you will also require time to complete activities related to your organization, such as creation of -- Marketing Authority (MA) i.e a department within the Supplier/ Bidder Organization responsible for responding to tenders, users for one or more such MAs, assigning roles to them, etc. It is mandatory to create at least one MA. This unique feature of creating an MA enhances security and accountability within the Supplier/ Bidder Organization
3. Get your organization's concerned executives trained on Bharat-Electronic Tender e-Tendering Portal well in advance of your first tender submission deadline on Bharat-Electronic Tender e-Tendering Portal.
4. For responding to any particular tender, the tender (ie its Tender Search Code or TSC) has to be assigned to an MA. Further, an 'Official Copy of Tender Documents' should be procured/ downloaded before the expiry of Date and Time of Closure of Procurement of Tender Documents. Note: Official copy of Tender Documents is distinct from downloading 'Free Copy of Tender Documents'. Official copy of Tender Documents is the equivalent of procuring physical copy of Tender Documents with official receipt in the paper-based manual tendering system.
5. Submit your bids well in advance of tender submission deadline on Bharat-Electronic Tender e-Tendering Portal (There could be last minute problems due to internet timeout, breakdown, etc.)
6. It is the responsibility of each bidder to remember and securely store the Pass-Phrase for each Bid-Part submitted by that bidder. The bidders are required to submit correct, valid and operative Pass-Phrase to decrypt either Technical Bid Part or Financial Bid Part in a separate sealed envelope before due date and time of submission of bid. In the event, the bids are not opened with the pass-phrase submitted by bidder, TATA POWER-DDL may ask for re-submission/ clarification for

correct pass-phrase. If bidder fails to submit correct pass-phrase immediately as requested by TATA POWER-DDL, the Tender Processing Fee and Tender Document Fee, if applicable, shall be forfeited and bid shall not be opened, and EMD shall be refunded. No request on this account shall be entertained by TATA POWER- DDL.

7. Bharat-Electronic Tender e-Tendering Portal will make your bid available for opening during the Online Public Tender Opening Event (TOE) 'ONLY IF' the status pertaining Overall Bid-Submission is 'COMPLETE'. For the purpose of record, the bidder can generate and save a copy of 'Final Submission Receipt'. This receipt can be generated from 'Bid-Submission Overview Page' only if the status pertaining overall Bid Submission' is 'COMPLETE'

NOTE:

While the first three instructions mentioned above are especially relevant to first-time users of Bharat-Electronic Tender e-Tendering Portal, the fourth, fifth, sixth and seventh instructions are relevant at all times.

ADDITIONAL DOs AND DON'Ts FOR BIDDERS PARTICIPATING IN e-REVERSE AUCTION

1. Get your organization's concerned executives trained for e-Reverse Auction related processes on Bharat-Electronic Tender e-Tendering Portal well in advance of the start of e-Reverse Auction.
2. For responding to any particular e-Reverse Auction, the e-Reverse Auction (i.e. its Reverse Auction Search Code or RASC) has to be assigned to an MA.
3. It is important for each bidder to thoroughly read the 'rules and related criterion' for the e-Reverse Auction as defined by the Buyer organization.
4. It is important to digitally-sign your 'Final bid' after the end of e-Reverse Auction bidding event.

Pre-requisite for participation in bidding process

- Bidder must possess a PC/ Laptop with Windows 7 professional operating system and Internet Explorer 8 or 9 for hassle free bidding. Bidder is essentially required to effect the security settings as defined in the portal.
- The Bidder must have a high-speed internet connectivity (preferably Broadband) with internet explorer to access Bharat-Electronic Tender e-Tendering Portal's e-Tender Portal for downloading the Tender document and uploading/ submitting the Bids.
- A valid e-mail ID of the Organization/ Firm

TERMS & CONDITIONS OF REVERSE AUCTION

After opening of Financial bids and short-listing of bidders based on the tariff and total capacity of project of qualified Project(s), TATA POWER-DDL shall resort to "REVERSE AUCTION PROCEDURE". Reverse Auction shall be conducted as per methodology specified in Section-4 and other provisions of Reverse Auction in RfS Documents and their subsequent Addenda/ Amendments/ Clarifications. Bidders in their own interest, are advised to go through the documents in entirety. The Terms & Conditions and Business Rules mentioned hereunder are in brief and may not give complete explanations. Further these are supplementary in nature.

1. Bidders shall ensure online submission of their 'Bid Price' within the auction period.
2. Bidders shall ensure to take all necessary training and assistance before commencement of reverse auction to the interested bidders on chargeable basis to be paid directly to -----
-.
3. Business rules for Reverse Auction like event date, time, bid decrement, extension etc. shall be as per the business rules, enumerated in the RfS document or intimated later on, for compliance.
4. Reverse auction will be conducted on scheduled date & time, as mentioned in the RfS document.
5. Bidders should acquaint themselves of the 'Business Rules of Reverse Auction', which is enclosed separately in the RfS document.
6. If the Bidder or any of his representatives are found to be involved in Price manipulation/ cartel formation of any kind, directly or indirectly by communicating with other bidders, action as per extant TATA POWER-DDL guidelines, shall be initiated by TATA POWER-DDL.
7. The Bidder shall not divulge either his Bids or any other exclusive details of TATA POWER- DDL to any other party.
8. Period of validity of Prices received through Reverse Auction shall be same as that of the period of validity of bids offered.
9. Bidders should also note that:
 - a) Although extension time is '8' minutes, there is a time lag between the actual placing the bid on the local computer of the bidder and the refreshing of the data on to the server for the visibility to the Owner. Considering the processing time for data exchange and the possible network congestion, bidders must avoid the last minute hosting of the Financial Bid during reverse auction.
 - b) Participating bidder will agree to non-disclosure of trade information regarding the purchase, identity of TATA POWER-DDL, bid process, bid technology, bid documentation and bid details.
 - c) It is brought to the attention of the bidders that the bid event will lead to the final price of bidders only.
 - d) Technical and other non-commercial queries (not impacting price) can only be routed to the TATA POWER-DDL contact personnel indicated in the RfS document.
 - e) Order finalization and post order activities such issue of LOA, signing of PPA etc. would be transacted directly between successful bidder(s) and TATA POWER-DDL.
 - f) LOA shall be placed outside the Bharat-Electronic Tender e-Tendering Portal & further processing of the LOA shall also be outside the system.
 - g) In case of any problem faced by the bidder during Reverse Auction and for all Bidding process related queries, bidders are advised to contact the persons indicated in Annexure - C of the

RfS document.

- h) Bidders are advised to visit the auction page and login into the system well in advance to identify/ rectify the problems to avoid last minute hitches.
- i) TATA POWER-DDL will not be responsible for any PC configuration/ Java related issues, software/ hardware related issues, telephone line glitches and breakdown/ slow speed in internet connection of PC at Bidder's end.
- j) Bidders may note that it may not be possible to extend any help, during Reverse Auction, over phone or in person in relation to rectification of PC/ Internet/ Java related issues and Bidder may lose the chance of participation in the auction.

10. For access to the Reverse Auction site, the following URL is to be used: -----

11. No queries shall be entertained while Reverse Auction is in progress.

BUSINESS RULES OF REVERSE AUCTION

Reverse Auction shall be conducted as per methodology specified in Section - 4 other provisions of Reverse Auction in RfS documents and their subsequent Amendments/ Clarifications/ Addenda. Bidders, in their own interest, are advised to go through the documents in entirety.

The following would be parameters for e-Reverse Auction:

Sl. No.	Parameter	Value
1.	Date and Time of Reverse-Auction Bidding Event	To be intimated Later to Eligible Bidders
2.	Duration of Reverse-Auction Bidding Event	30 minutes
3.	Automatic extension of the 'Reverse Auction closing Time', if last bid received is within a	Yes

Sl. No.	Parameter	Value
	'Predefined Time-Duration' before the 'Reverse-Auction Closing Time'	
3.1	Pre-defined Time-Duration	08 Minutes
3.2	Automatic extension Time-Duration	08 Minutes
3.3	Maximum number of Auto-Extension	Unlimited Extension
4.	Entity-Start-Price	Tariff quoted by the bidders in Financial Bid (Second Envelope)

Online Reverse Auction shall be conducted by TATA POWER-DDL on pre-specified date and time, while the bidders shall be quoting from their own offices/ place of their choice. Internet connectivity shall have to be ensured by bidders themselves.

During the Reverse Auction, any requests for extension of time will not be considered by TATA POWER-DDL. Bidders are therefore requested to make all the necessary arrangements/ alternatives whatever required so that they are able to participate in the Reverse Auction successfully. Failure of power or loss of connectivity at the premises of bidders during the Reverse Auction cannot be the cause for not participating in the Reverse Auction. TATA POWER- DDL shall not be responsible for such eventualities.

Bidders are advised to get fully trained and clear all their doubts such as refreshing of Screen, capacity/ no. of projects being auctioned, auction rules etc.

TATA POWER-DDL reserves the right to cancel/ reschedule/ extend the Reverse Auction process/ tender at any time, before ordering, without assigning any reason.

TATA POWER-DDL shall not have any liability to bidders for any interruption or delay in access to the auction website irrespective of the cause. In such cases, the decision of TATA POWER- DDL shall be binding on the bidders.

Other terms and conditions shall be as per bidder's techno-commercial offers and as per the RfS document and other correspondences, if any, till date.

Annexure-D

Check List for Financial Closure

(To be signed by the Authorized signatory of the HPD) (RfS No. dated)

Last Date for submission of documents related to Financial Closure – (12 months from date of signing of the PPA)

Project Company Name _____

Project ID: - _____

LOA No. - _____ Dtd. - _____

Date of signing of the PPA - _____

Scheduled Commissioning Date: - _____

1.0 Financial Closure - (Clause 3. 16 of the RfS, including subsequent amendments & clarifications)

Details	Presently given in PPA
(1)	(2)
Location	
Technology	
Certificate from all financial institutions	<p><u>In case of tie up through Bank / Financial Institutions: -</u></p> <p>Document from Bank / Financial Institutions certifying arrangement of necessary funds by way of sanction of Loan (to be enclosed as <u>Annexure-I</u>).</p> <p><u>In case of Internal Resources: -</u></p> <p>Copy of Board Resolution, Audited/Certified Balance sheet, Profit & Loss Account Statement, Bank Statement and Cash Flow Statement in support of availability of Internal resources of the Project Company and of the Company other than Project Company (in case the required funding will be raised from Company other than Project Company) (to be enclosed as <u>Annexure-I</u>).</p> <p><i>Performa for the cases where funding will be from Company other than Project Company is at 'A-1'.</i></p>

Note:-

- (i) Copy of Final Detailed Project Report (DPR) is to be enclosed as **Annexure – II A**
- (ii) Undertaking by the Project Company that all Consents, clearances and permits required for supply of Power to TATA POWER-DDL as per the terms of PPA have been obtained is to be enclosed as **Annexure – II B**

2.0 Copy of Agreement/ MOU entered into / Purchase Order with acceptance, for the supply of Plants and Equipment (to be enclosed as **Annexure-III**)

3.1 Technical Parameters of the Project (Section-IV, Cl. B of the RfS)

- 3.1.1 Certificate from Project Company that Technical specifications and directives given in Annexure-A of the RfS will be adhered to (to be enclosed as **Annexure-IV A**)
- 3.1.2 Proposed Project configuration as part of DPR of the Project (to be enclosed as **Annexure-IV B**)

4.0 Ownership of the RPD: Latest Shareholding Pattern of the Project Company (including Compulsorily Convertible Debentures (CCDs), Compulsorily Convertible Preferential Shares (CCPS) of the Project Company certified by Chartered Accountant (to be enclosed as **Annexure V A)**

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

Note: Declaration of Shareholding Pattern of the Project Company is to be submitted to TATA POWER-DDL on monthly basis, i.e., by the 10th day of every month for shareholding status of the Company upto the end of the previous month, till 1 year from the date of commissioning of the project.

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

Performa 'A-1'

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

Board Resolution from _____ (Name of the Company from where the required funding will be raised)

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

RESOLVED that approval of the Board be and is hereby accorded to the company extending unconditional and full financial support whether by way of equity, debt, or a combination thereof, towards meeting the full project cost of Rs. _____ (in words and figures) to M/s _____ (Name of Project Company), a company within the meaning of The Companies Act, 1956 and/or The Companies Act, 2013, and having its registered office at _____ which was selected by Tata Power Delhi Distribution

Limited (TATA POWER-DDL) to develop the MW Wind-Solar Hybrid Power Project (Project ID.....), for generation and sale of power under the RfS No. _____ in respect of which Power Purchase Agreement (PPA) was signed between TATA POWER-DDL and _____ (Name of Project Company). Funds will be released for the project as per the request of _____ (Name of Project Company) to meet the financial requirement for the said Project.

Board Resolution from _____ (Project Company)

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

RESOLVED that approval of the Board be and is hereby accorded to the Company which was selected by Tata Power Delhi Distribution Limited (TATA POWER-DDL) to develop the MW Wind-Solar Hybrid Power Project (Project ID.....), for generation and sale of hybrid power under the RfS No. _____ in respect of which Power Purchase Agreement (PPA) was signed between TATA POWER-DDL and the Company, to request and undertake to accept unconditional and full financial support and getting release of funds for project as per requirement from the Company i.e. _____, a Company within the meaning of The Companies Act, 1956 and/or The Companies Act, 2013, and having its registered office at _____ whether by way of equity, debt, or a combination thereof for meeting the financial requirements of the project being developed by the Project Company.

Further Resolved that in the event the Company i.e. _____, agrees to extend full financial support as sought above, Sh. _____, Director, Sh. _____, Director.... be and are hereby severally or collectively authorized to accept any terms and conditions that may be imposed by _____ (Name of the Company), for extending such support and that they are also severally or collectively authorized to sign such documents, writings as may be necessary in this connection.

STANDARD POWER PURCHASE AGREEMENT
FOR
PROCUREMENT OF 255 MW WIND-SOLAR HYBRID POWER WITH GREENSHOE
OPTION OF ADDITIONAL 255 MW WIND-SOLAR HYBRID POWER
ON LONG TERM BASIS
BETWEEN

[Insert Name of Hybrid Power Developer]

AND

Tata Power Delhi Distribution Limited

[Insert month and year]

POWER PURCHASE AGREEMENT

This Power Purchase Agreement (“PPA” or “Agreement”) is made on the [Insert date] day of [Insert month] of [Insert year] at [Insert place],

BETWEEN

1. [Insert name of the Hybrid Power Developer], a company incorporated under the Companies Act, 1956 or Companies Act, 2013, having CIN [Insert CIN of Hybrid Power Developer] and having its registered office at [Insert address of the registered office of Hybrid Power Developer] (hereinafter referred to as “Hybrid Power Developer or HPD”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and permitted assigns) as a Party of the **First Part**; and
2. **Tata Power Delhi Distribution Limited**, a company incorporated under the Companies Act 1956, having CIN U40109DL2001PLC111526 and having its registered office at Corporate Office, NDPL House, Hudson Lines Kingsway Camp, Delhi -110009 (“TPDDL” or “Tata Power-DDL” or “Procurer” or “Buyer” which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and assigns) as a Party of the **Second Part**;

The HPD and TPDDL are individually referred to as a ‘Party’ and collectively referred to as ‘Parties’.

WHEREAS:

- A. The Ministry of New and Renewable Energy (“MNRE”), Government of India, has issued the “Guidelines for Tariff Based Competitive Bidding Process for procurement of power from Grid Connected Wind-Solar Hybrid Projects” vide F.No. 238/78/2017-Wind dated 14.10.2020 and as amended on 23.07.2021 and 09.03.2022 (“Guidelines” or “Scheme”), under the National Wind Solar Hybrid Policy issued by MNRE on 14.05.2018.
- B. In compliance with the Guidelines, and pursuant to the deviations approved by the Hon’ble Delhi Electricity Regulatory Commission by its order dated 27.07.2022 in Petition No. 50/2021 (“DERC Order”), TPDDL had initiated a Tariff Based Competitive Bid Process for procurement of 255 MW with a greenshoe option of additional 255 MW of power generated from Wind-Solar Hybrid Power Projects on the term and conditions contained in the Request for Selection issued by TPDDL vide RfS No. **Tata Power-DDL/RE Hybrid/2022** dated 31.08.2022 (as amended and/or supplemented, “RfS” or “RFS”).
- C. The Hybrid Power Developer has been selected in the Competitive Bidding Process for development, generation and supply of electricity from the [Insert Project Capacity] MW Hybrid Power Project [established / to be established] by HPD in [Insert location of Project], India and for supply of such electricity to TPDDL.
- D. TPDDL has issued the Letter of Award No [●] dated [●] in favour of the HPD for [development and establishment/ already developed] [Insert Project Capacity] MW Hybrid Power Project in the State of [Insert location of Project] as per the terms and conditions contained in the RfS, draft of this Power Purchase Agreement circulated at the time of the bidding and other bidding documents (collectively, “Bidding Documents”) as well as the conditions contained in the Letter of Award.
- E. TPDDL has agreed to purchase such power from the HPD as a Procurer as per the provisions of the RfS.

- F. In terms of the RfS and the Bidding Documents, the HPD has furnished the Performance Bank Guarantee in the sum of [[●] @ INR 10,00,000 (Indian Rupees Ten lakh) per MW] in favour of TPDDL as per the format provided as a part of the Bidding Documents and a copy of the Performance Bank Guarantee provided by the HPD is in Schedule – 1 to this Agreement;
- G. The HPD has fulfilled the terms of the bidding and the terms of the Letter of Award for signing this Power Purchase Agreement as a definitive agreement for establishing the Hybrid Power Project of [●] MW at **[Insert Project location]** for generation and sale of electricity by the HPD to Tata Power-DDL.
- H. The Parties have agreed to execute this Power Purchase Agreement in terms of the provisions of the RfS, the other Bidding Documents and the Letter of Award in regard to the terms and conditions for generation and supply of Hybrid Power by the HPD to TPDDL from the Hybrid Power Project at **[Insert name of state]** and for generation and supply of electricity by the HPD to TPDDL.

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”	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> <p>i. On or before Commercial Operation Date (COD), the Adjusted Equity shall be a sum equal to the equity funded in Indian Rupees and expended on the Project, revised to the extent of one half of the variation in WPI occurring between the first day of the month of Appointed Date and Reference Date;</p> <p>ii. An amount equal to the Adjusted Equity as on COD shall be deemed to be the base (the “Base Adjusted Equity”);</p> <p>iii. After COD, the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, reduced by 0.333% (zero point three three three percent) thereof at the commencement of each month following the COD [reduction of 1% (one percent) per quarter of an year] and the amount so arrived at shall be revised to the extent of variation in WPI occurring between the COD and the Reference Date;</p> <p>For the avoidance of doubt, the Adjusted Equity shall, in the event of termination, be computed as on the Reference Date immediately preceding</p>

	the transfer date; provided that no reduction in the Adjusted Equity shall be made for a period equal to the duration, if any, for which the PPA period is extended, but the revision on account of WPI shall continue to be made;
"Agreement" or "Power Purchase Agreement" or "PPA"	shall mean this Power Purchase Agreement including its recitals and Schedules, amended or modified from time to time in accordance with the terms hereof;
"Appropriate Commission"	Appropriate Commission shall mean Delhi Electricity Regulatory Commission/ Central Electricity Regulatory Commission (as applicable);
"Bill Dispute Notice"	shall mean the notice issued by a Party raising a Dispute regarding a Monthly Bill or a Supplementary Bill issued by the other Party;
"Business Day"	shall mean with respect to HPD and TPDDL, a day other than Sunday or a statutory holiday, on which the banks remain open for business in Delhi;
"Buying Entity"	Shall mean TPDDL, which requires hybrid power to fulfil its solar and non-solar RPO under respective RPO regulations;
"Capacity Utilization Factor" or "CUF"	<p>shall have the same meaning as provided in CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2020 as amended from time to time;</p> <p>For illustration, CUF shall be calculated based on the annual energy injected and metered at the Delivery Point. In any Contract Year, if 'X' MWh of energy has been metered out at the Delivery Point for 'Y' MW Project capacity, $CUF = (X \text{ MWh} / (Y \text{ MW} * 8766)) * 100$.</p> <p>It may be noted that in the above illustration, the capacity 'Y' MW shall refer to the Contracted Capacity;</p>
"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.
"Change in Law"	shall have the meaning ascribed thereto in Article 12 of this Agreement;
"Commissioning"	The Project will be considered as commissioned if all equipment as per rated Project Capacity has been installed and energy has flown into grid, in line with the Commissioning procedures defined in the PPA.

“Commercial Operation Date (COD)”	The Commercial Operation Date (COD) shall be considered as the actual date of commissioning of the Project as declared by the State Nodal Agency/ Commissioning Committee constituted / appointed/ decided by the bidder. In case of part commissioning, COD will be declared only for that part of the Project Capacity which has actually been commissioned;
“Competent Court of Law”	shall mean any court or tribunal or any similar judicial or quasi- judicial body in India that has jurisdiction to adjudicate upon issues relating to this Agreement;
“Consents, Clearances and Permits”	shall mean all authorizations, licenses, approvals, registrations, permits, waivers, privileges, acknowledgements, agreements, or concessions required to be obtained from or provided by any concerned authority for the purpose of setting up of the generation facilities and/ or supply of power;
“Consultation Period”	shall mean the period of ninety (90) days or such other longer period as the Parties may agree, commencing from the date of issuance of a HPD Preliminary Default Notice or TPDDL 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”	<p>shall mean the period beginning from the Effective Date and ending on the immediately succeeding March 31 and thereafter each period of 12 months beginning on April 1 and ending on March 31;</p> <p>Provided that the Contract Year shall end on the 31st March of the year in which COD has been attained and thereafter each period of twelve (12) months commencing on April 1 and ending on March 31;</p> <p>Provided further that the last Contract Year of this Agreement shall end on the last day of the Term of this Agreement;</p>
"Contracted Capacity"	shall mean [Insert capacity] MW contracted with TPDDL for supply by the HPD to TPDDL at the Delivery Point from the Hybrid Power Project;
“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, (i) the principal amount of the debt provided by the senior lenders under the Financing Agreements for financing the Total Project Cost (the ‘Principal’) but excluding any part of the principal that had fallen due for repayment 2 (two) years prior to the Transfer Date;</p> <p>All accrued interest, financing fees and charges payable under the Financing Agreements on, or in respect of, the debt referred to in sub-clause (i) above until the transfer date but excluding: (i) any interest, fees or charges that had fallen due one year prior to the transfer date, (ii) any penal interest or charges payable under the Financing Agreements to any senior lender, (iii) any pre-payment charges in relation to accelerated repayment of debt except where such charges have arisen due to utility default, and (iv) any subordinated debt which is included in the financial package and disbursed by lenders for financing the Total Project Cost.</p> <p>Provided that if all or any part of the Debt Due is convertible into equity at the option of senior lenders and/or the concessionaire, it shall for the purposes of this Agreement be deemed not to be Debt Due even if no such conversion has taken place and the principal thereof shall be dealt with as if such conversion had been undertaken.</p> <p>Provided further that the Debt Due, on or after COD, shall in no case exceed 80%</p>
“Delivery Point”	<p>shall mean the point at which energy is delivered at TPDDL periphery (i.e. the interconnection point of DTL network with TPDDL network). All the transmission charges and losses from generator ex-bus till the delivery point shall be to the account of the successful bidder/developer. Taking all necessary consents/arrangements for delivering the power at TPDDL periphery shall remain entirely with the successful bidder. Please note that all the bidders are required to quote the tariff (inclusive of all charges, losses, taxes, royalty, cess, duties and any other involved costs whatsoever) at the delivery point. All-inclusive tariff at delivery point shall be used for the purpose of further bid evaluation;</p>
“Discoms”	<p>shall mean the Buying Entity or the distribution utilities (TPDDL in this case);</p>
“Dispute”	<p>shall mean any dispute or difference of any kind between TPDDL and the HPD, in connection with or arising out of this Agreement including but not limited to any issue on the interpretation and scope of the terms of this Agreement as provided in Article 16 of this Agreement;</p>
“Due Date”	<p>Due Date shall mean the sixtieth (60th) day after a Monthly Bill (including all the relevant documents) or a Supplementary Bill is received in hard copy and duly acknowledged by the TPDDL 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 TPDDL;</p>
“Effective Date”	<p>shall have the meaning ascribed thereto in Article 2.1 of this Agreement;</p>

"Electricity Laws"	shall mean the Electricity Act 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; TPDDL reserves the right to choose from any of the above, i.e. JMR/SEA/REA, based on the acceptance of the same by the buying utility; Please note that the generator shall be required to provide actual energy scheduled by both sources (i.e. Solar and Wind) separately as required by TPDDL;
"Event of Default"	shall mean the events as defined in Article 13 of this Agreement;
"Expiry Date"	shall mean the date occurring 25 (twenty five) years from the Scheduled Commissioning Date or from the date of full/ mutually agreed commissioning date, whichever is earlier;
"Financial Closure"	shall mean compliance with the requirements under Article 3.1 of this Agreement;
"Financing Agreements"	shall mean the agreements pursuant to which the HPD has sought financing for the Power Project including the loan agreements, security documents, notes, indentures, security agreements, letters of credit and other documents, as may be amended, modified, or replaced from time to time, but without in anyway increasing the liabilities of TPDDL;
"Force Majeure" or "Force Majeure Event"	shall have the meaning ascribed thereto in Article 11 of this Agreement;
"Guidelines" or "Scheme"	shall mean the "Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects" issued by the Ministry of New and Renewable Energy on 14.10.2020, and as amended on 23.07.2021 and 09.03.2022;
"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 as applicable;
"Indian Governmental Instrumentality"	shall mean the Government of India, Governments of New Delhi, [Insert the name(s) of the state(s) in India, where the Power Project and HPD are located] and any ministry, department, board, authority, agency, corporation, commission under the direct or indirect control of Government of India or the above state Government(s) or both, any political sub-division of any of them; including any court or Appropriate Commission(s) or tribunal or judicial or quasi-judicial body in India;

“Insurances”	shall mean the insurance cover to be obtained and maintained by the HPD in accordance with Article 8 of this Agreement;
“Interconnection Facilities”	shall mean the facilities on HPD’s side of the Delivery Point for scheduling, transmitting and metering the electrical output in accordance with this Agreement and which shall include, without limitation, all other transmission lines and associated equipment, transformers, relay and switching equipment and protective devices, safety equipment and RTU, Data Transfer and Acquisition facilities for transmitting data subject to Article 7, the Metering System required for supply of power as per the terms of this Agreement;
“Interconnection Point”	shall mean the point of the CTU/STU/Discom where the project gets connected with. Metering shall be done at this interconnection point where the power is injected into the CTU/STU/Discom network. For interconnection with grid and metering, the HPD shall abide by the relevant and applicable regulations, Grid Code notified by the CERC or and Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended and revised from time to time, or orders passed thereunder by the appropriate commission or CEA.
“Invoice” or “Bill”	shall mean either a Monthly Bill / Supplementary Bill or a Monthly Invoice/ Supplementary Invoice raised by any of the Parties;
“Joint Control”	shall mean a situation where none of the promoter shareholders has at least 51 % shareholding in the paid up share capital and voting rights in the HPD, and the control is exercised jointly;
“Late Payment Surcharge”	shall have the meaning ascribed thereto in Article 10.3.3 of this Agreement;
“Law”	shall mean in relation to this Agreement, all laws including Electricity Laws in force in India and any statute, ordinance, regulation, notification or code, circulars, guidelines, clarifications, 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, circulars, guidelines, clarifications notifications by an Indian Governmental Instrumentality pursuant to or under any of them and shall include without limitation all applicable rules, regulations, decisions, circulars, guidelines, clarifications, and orders of the Appropriate Commissions;
“Letter of Credit” or “L/C”	shall have the meaning ascribed thereto in Article 10.4 of this Agreement;
“MNRE”	shall mean the Ministry of New and Renewable Energy, Government of India;
“Month”	shall mean a period of thirty (30) days from (and excluding) the date of the event, where applicable, else a calendar month;

“Party” and “Parties”	shall have the meaning ascribed thereto in the recital to this Agreement;
“Payment Security Mechanism”	shall have the meaning ascribed thereto in Article 10.4 of this Agreement;
“Performance Bank Guarantee” or “PBG”	shall mean the irrevocable unconditional bank guarantee, submitted by the HPD to TPDDL copy of which are attached hereto as Schedule 1;
“Pooling Substation/ Pooling Point”	means a point where more than one project may connect to a common transmission system. Multiple projects can be connected to a pooling substation from where common transmission system shall be constructed and maintained by the HPD(s) to get connected to the ISTS/STS/Discom substation. Further, the metering of the pooled power shall be done at the injection point, i.e. the ISTS/STS/Discom substation. However, the voltage level of transmission system of individual projects up to the pooling substation may be at 33 kV and above. Sub-meters shall be installed at the pooling substation for metering and forecasting and scheduling of individual projects. The losses in the common transmission system up to the injection point shall be apportioned to the individual Projects for the purpose of billing. In such case, it shall be responsibility of the HPD to obtain and furnish the meter reading jointly by the HPD and any competent authority (State Government or Central Government) (if applicable). The bidder shall provide Solar and Non Solar schedule separately to TPDDL for the purpose of ascertaining the Renewable power from Solar and Non Solar components of the project;

“Power Project” or “Project”	<p>“Power Project” or “Project” shall mean the Wind-Solar hybrid power generation facility of Contracted Capacity of [Insert capacity] MW, located at [Insert name(s) of the village(s)] in [Insert name(s) of the District(s) and State(s)] having a separate control system, metering and a single point or separate points of injection into the grid at Delivery/Interconnection/Metering point(s) at ISTS substation or in case of sharing of transmission lines, by separate injection at pooling point. In case of multiple points of injection, the maximum number of such multiple injection points for each Project, will be two (2). The rated capacities of the various Project components are as follows:</p> <p>Solar PV component: _____MW Wind power component: _____MW.</p> <p>This includes all units/ modules and auxiliaries and associated facilities, bay(s) for transmission system in the switchyard, dedicated transmission line up to the interconnection/ Metering Point and all the other assets, buildings/structures, equipment, plant and machinery, facilities and related assets required for the efficient and economic operation of the power generation facility, whether completed or at any stage of development and construction or intended to be developed and constructed for the purpose of supply of power to TPDDL;</p>
“Preliminary Default Notice”	shall have the meaning ascribed thereto in Article 13 of this Agreement;
“Procurer”	shall mean TPDDL;
“Project Capacity”	means the maximum AC capacity at the Delivery Point, being [Insert Capacity] MW which can be scheduled under this PPA;
“Prudent Utility Practices”	<p>shall mean the practices, methods and standards that are generally accepted internationally from time to time by electric utilities for the purpose of ensuring the safe, efficient and economic design, construction, commissioning, operation and maintenance of power generation equipment and which practices, methods and standards shall be adjusted as necessary, to take account of:</p> <p>a) operation and maintenance guidelines recommended by the manufacturers of the plant and equipment to be incorporated in the Power Project;</p> <p>b) the requirements of Indian Law; and the physical conditions at the site of the Power Project;</p>
“RBI”	shall mean the Reserve Bank of India;
“Rebate”	shall have the same meaning as ascribed thereto in Article 10.3.5 of this Agreement;
“RLDC”	Shall mean the relevant Regional Load Dispatch Centre established under Sub-section (1) of Section 27 of the Electricity Act;

“RPC”	Shall mean the relevant Regional Power Committee established by the Government of India for a specific region in accordance with the Electricity Act 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 be the date as on 24 (twenty four) months from the Effective Date of PPA;
“SERC”	Shall mean the Electricity Regulatory Commission of any State in India constituted under Section-82 of the Electricity Act or its successors, and includes a Joint Commission constituted under Subsection (1) of Section 83 of the Electricity Act;
“SLDC”	shall mean the centre established under Sub-section (1) of Section 31 of the Electricity Act, relevant for the State(s) where the Delivery Point is located;
“SLDC Charges”	shall mean the charges levied by the SLDC of the state wherein the Hybrid Power Project is located;
“Solar Photovoltaic Project” or “Solar PV Project”	shall mean the solar photovoltaic power project that uses sunlight for direct conversion into electricity through photovoltaic technology and that is being set up by the HPD to provide Solar Power to TPDDL as per the terms and conditions of this Agreement;
“Solar Power”	shall mean power generated from the Solar Photovoltaic Project;
“State Transmission Utility” or “STU”	shall mean the Board or the Government company notified by the respective State Government under Sub-section (1) of Section 39 of the Act;
“Sub-pooling Substation”	shall mean the intermediate pooling point where power from the Solar and Wind Project components (as applicable) of the Hybrid Power Project is injected into and from where the hybrid power is evacuated through a single transmission line and injected into the interconnection point;
“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;
“TPDDL” / “Tata Power – DDL” / “Procurer” / “Buyer”	shall mean Tata Power Delhi Distribution Limited;
“Unit/ Part Commissioning”	Subject to the compliance of conditions / procedure as detailed under Schedule-2 of this Agreement, Unit / Part Commissioning shall mean the Hybrid Power Capacity (AC MW) to be commissioned as per provisions of this Agreement and RfS document.
“Unit Commercial Operation Date (UCOD)”	shall mean the date of issuance of commissioning certificate for the respective part(s) of the Power Project subsequent to the demonstration of the compliance of commissioning as per this Agreement and witnessed by the Committee duly constituted and also start of injection and scheduling power from the Power Project to the Delivery Point and availability / installation of all necessary arrangements / equipment including RTU for scheduling of power generated from the Project and transmission of data to the concerned authority as per applicable regulation;
“Week”	shall mean a calendar week commencing from 00:00 hours of Monday, and ending at 24:00 hours of the following Sunday;
“Wind Power”	Shall mean power generated from the Wind Power Projects;
“Wind Power Project”	shall mean the project that uses wind energy for conversion into electricity through wind turbine generator and that is being set up by the HPD to provide Wind Power to Buyer as per the terms and conditions of this Agreement;
“Wind Solar Hybrid Power Project” or “Hybrid Power Project”	means the wind-solar hybrid power project where the rated power capacity of one resource is at least 33% (thirty-three percent) of the total contracted power capacity.

1.2 Interpretation

Save where the contrary is indicated or the subject or context requires otherwise, 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, if any;
- 1.2.2 An “Article”, a “Recital”, a “Schedule”, an “Appendix”, an “Annexure” 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 (100,000);
- 1.2.4 “Encumbrance” shall be construed as a reference to a mortgage, charge (whether fixed or floating), pledge, lien or any right or interest securing (whether conditional or not, whether actual or contingent,

present or future) any obligation of any Person (including any designation as ‘loss payee’ under an insurance contract in favour of any other Person) or any other arrangement having a similar effect or any type of preferential arrangement (including, without limitation, title transfer and retention arrangements, pre-emptive rights, adverse claim as to title, possession or use);

- 1.2.5 “Indebtedness” shall be construed so as to include any obligation (whether incurred as principal or surety and whether several or joint) for the payment or repayment of any money, whether present or future, actual or contingent;
- 1.2.6 “Person” shall be construed as a reference to any individual, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and a reference to any Person shall be construed as including a reference to its successors, permitted transferees and permitted assigns;
- 1.2.7 “Rupee”, “Rupees”, “Rs”, “INR” or new rupee symbol “₹” shall denote Indian Rupees, the lawful currency of India;
- 1.2.8 The “winding-up”, “dissolution”, “insolvency”, “liquidation”, “bankruptcy” or “reorganization” of a Person shall be construed so as to include any equivalent or analogous proceedings under the Law of any jurisdiction in which such Person resides, is incorporated, formed or registered carries on business or holds property, including the seeking of (whether voluntary or involuntary) bankruptcy, liquidation, winding-up, insolvency, dissolution, re-organisation, or any other arrangement for the protection or relief of debtors or creditors;
- 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 table 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 as a whole;
- 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 the RfS, the Bidding Documents, the Guidelines including any subsequent clarifications, amendments and further clarifications in regard thereto shall be read in conjunction with each other and interpreted in harmonious manner. However, in case of any mismatch/contradiction between provisions of different documents, following shall be the order of precedence:
1. Power Purchase Agreement;
 2. RfS Documents.

ARTICLE 2: TERM OF AGREEMENT

2.1 *Effective Date*

- 2.1.1 This Agreement shall come into effect from the date of signing of this PPA, or any further date as applicable and such date shall be referred to as the Effective Date.
- 2.1.2 The parties agree that decision 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.

2.2 *Term of Agreement*

- 2.2.1 Subject to Article 2.3 and 2.4 of this Agreement, this Agreement shall be valid for a term from the Effective Date until the Expiry Date. This Agreement may be extended for a further period by TPDDL by giving a notice in writing, at least one hundred eighty (180) days prior to the Expiry Date. Such extension shall be on mutually agreed terms and conditions with approval of State Commission.
- 2.2.2 The HPD is free to operate their plants beyond the Expiry Date if other conditions like land lease / Right to Use of Land (as applicable), permits, approvals and clearances etc. allow. In such case unless otherwise agreed by TPDDL, TPDDL shall not be obligated to procure power beyond the Expiry Date.

2.3 *Early Termination*

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

2.4 *Survival*

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

ARTICLE 3: CONDITIONS SUBSEQUENT

3.1 *Satisfaction of conditions subsequent by the HPD*

The HPD agrees and undertakes to duly perform and complete all of the following activities including Financial Closure at the HPD's own cost and risk within 12 (twelve) months from the date of signing of this PPA, unless such completion is affected by any Force Majeure event, or for the activities specifically waived in writing by TPDDL:

- (a) The HPD shall make Project financing arrangements for its Projects(s) and shall provide necessary certificates to TPDDL in this regard.
- (b) The HPD shall submit to TPDDL the relevant documents as stated above, complying with the Conditions Subsequent, within twelve (12) months from the date of signing of this PPA.

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

- 3.2.1(i) In case of a failure to fulfil the conditions subsequent and/or submit the documents as above, TPDDL shall be entitled to encash the Performance Bank Guarantee submitted by the HPD, terminate this Agreement and remove the Project from the list of the selected Projects by giving a prior notice to the HPD in writing of at least seven (7) Business Days, unless the delay (subject to the conditions that HPD has made / is making all possible efforts) is on account of Force Majeure. Unless extended as per provisions of Article 3.2.1 (i) of this Agreement in writing, the termination of the Agreement shall take effect upon the expiry of the 7th day of the above notice.
- 3.2.1(ii) An extension, without any impact on the Scheduled Commissioning Date, may be considered by TPDDL, on the sole request of HPD, on payment of Rs. 1,000/- (Indian Rupees One Thousand only) per day per MW to TPDDL, such extension charges are required to be paid to TPDDL in advance, for the period of extension requested by HPD. In case of any delay in depositing this extension charge, HPD shall pay an interest on this extension charge for the days lapsed beyond due date of Financial Closure @ SBI-MCLR (1Year). In case such delay in making payment of the extension charges to TPDDL is more than 7 (seven) Business Days, the termination of the Agreement shall take effect upon the expiry of such 7th Business Day. In case of the HPD meeting the requirements of conditions subsequent and Financial Closure before the last date of such proposed delay period, the remaining amount deposited by the HPD shall be returned by TPDDL without interest. This extension will not have any impact on the Scheduled Commissioning Date. Any extension charges paid so by the HPD, shall be returned to the HPD without any interest on achievement of successful commissioning within the Scheduled Commissioning Date, on pro-rata basis, based on the project capacity commissioned as on Scheduled Commissioning Date. However, to the extent the HPD fails to commission the Contracted Capacity by Scheduled Commissioning Date, the extension charges deposited by the HPD shall not be refunded by TPDDL.
- 3.2.2 For the avoidance of doubt, it is clarified that this Article shall survive the termination of this Agreement.
- 3.2.3 Not used.
- 3.2.4 In case of inability of the HPD to fulfil the conditions specified in Article 3.1 due to any Force Majeure event, the time period for fulfilment of the Conditions Subsequent and Financial Closure as mentioned in Article 3.1, shall be extended by the period of such Force Majeure event subject to approval from Appropriate Commission.
- 3.2.5 Provided that due to the provisions of this Article 3.2.4, 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

- 3.3.1 The Performance Bank Guarantee having validity from the date of submission of PBG until the expiry of thirty (30) months from the Effective Date and of Rs. 10 Lakh/MW/Project to be furnished under this Agreement shall be for guaranteeing the commencement of the supply of power up to the Contracted Capacity within the time specified in this Agreement as per format provided in in the RfS.
- 3.3.2 The failure on the part of the HPD to furnish and maintain the Performance Bank Guarantee shall be a material breach of the term of this Agreement on the part of the HPD.

- 3.3.3 If the HPD fails to commence supply of power from the Scheduled Commissioning Date specified in this Agreement or any further extension thereof granted by TPDDL, subject to conditions mentioned in Article 4.5, TPDDL shall be entitled to encash the Performance Bank Guarantee equivalent to the amount calculated as per the liquidated damages applicable under Article 4.6 as on the date of encashment without prejudice to any other rights of TPDDL under this Agreement or applicable Law.

3.4 Return of Performance Bank Guarantee

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

ARTICLE 4: CONSTRUCTION & DEVELOPMENT OF THE PROJECT

4.1 HPD's Obligations

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

- a) making, arrangements for land and associated infrastructure for development of the Project and for connectivity with the CTU System for confirming the evacuation of power by the Scheduled Commissioning Date, all clearances related thereto and necessary arrangements of transmission corridor for delivering the power at the Delivery Point;

Notwithstanding anything to the contrary, the HPD shall 3 (three) months before the SCD, demonstrate clear possession and right to use 100% of the land identified for the Project in its name for a period not less than the complete Term of this Agreement. In this regard, the HPD shall submit documents/ Lease Agreement to establish possession/ right to use of the required land in the name of the HPD or its Affiliate. In case the land is in the name of the Affiliate, the land should be transferred in the name of the HPD prior to 3 (three) months to the SCD. The HPD shall submit a sworn affidavit from the authorized signatory of the HPD listing the details of the land and certifying that total land required for the Project is under clear possession of the HPD;

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. TPDDL shall have no obligation to recommend to any Indian Governmental Instrumentality for the grant/permission for the Hybrid Power Project. The Hybrid Power Developer shall, on his own, obtain permissions/ sanctions from Government authorities, if any required for establishing the project. Any steps that may be taken by TPDDL in regard to grant of such consents and permits or any other approval to be taken by the HPD shall be at the sole discretion of TPDDL and shall not bind TPDDL in any manner or create any legal or binding obligation on TPDDL.

- b) designing, constructing, erecting, commissioning, completing and testing the Power Project in accordance with the applicable Law, the Grid Code, the terms and conditions of this Agreement and Prudent Utility Practices;
- c) the commencement of supply of power up to the Contracted Capacity to TPDDL no later than the Scheduled Commissioning Date and continuance of the supply of power throughout the term of the Agreement;

- d) connecting the Power Project switchyard with the Interconnection Facilities at the Delivery Point;
- e) owning the Power Project throughout the Term of Agreement free and clear of encumbrances, except those expressly permitted under Article 15;
- f) maintaining its controlling shareholding (controlling shareholding shall mean more than 50% of the voting rights and paid-up share capital) prevalent at the time of signing of PPA up to a period of one (1) year after Commercial Operation Date of the Project in line with the provisions of the RfS; however transfer of controlling shareholding within the same Group Companies will be allowed with the permission of TPDDL in writing after COD subject to the condition that the management control remains within the same Group Companies.
- g) fulfilling all obligations undertaken by the HPD under this Agreement;
- h) Obtaining Long Term Access (LTA) and executing transmission service agreement with CTU/STU as the case may be, for evacuation of the Contracted Capacity and maintaining it throughout the term of the Agreement.
- i) directly coordinating and dealing with Load Dispatch Centres, Regional Power Committees, and other authorities in all respects in regard to declaration of availability, scheduling and dispatch of Hybrid Power and due compliance with deviation and settlement mechanism and the applicable Grid Code/State/Central Regulations, acknowledging that the HPD and TPDDL are the Grid connected entities under this Agreement.
- j) fulfilling the technical requirements for the solar modules installed by the HPD, according to criteria mentioned under Annexure II–Technical requirement for Grid Connected Solar PV Power Stations under Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar Power Projects, issued by Ministry of Power, *vide* resolution no.23/27/2017-R&R dated 03.08.2017, including subsequent amendments and clarifications. Further, the type-certified wind turbine models listed in Revised List of Models and Manufacturers (RLMM) issued by MNRE as updated as on the date of commissioning of the Projects by the HPD will be allowed for deployment of wind modules under this Agreement. The wind power projects will be developed as per Guidelines issued by MNRE on Development of Onshore Wind Power Projects. However, the HPD may approach TPDDL, in the event there are more effective technical guidelines which may be considered.
- k) fulfilling the criteria as per Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007, and subsequent amendments and clarifications thereof;
- l) As part of scheduling of power from the Project, the HPD will be required to punch-in their respective schedules and subsequent revisions, by themselves, at the interfaces of all the RLDCs/SLDCs concerned for the corridor of power flow, including the RLDC/SLDC of TPDDL and to send the schedule on day ahead and intra day basis to Procurer, as per the Regulations in force. The HPD shall be solely responsible for discrepancy identification and its rectification to avoid any rejection/less payment of invoices;
- m) applying start up/auxiliary power required for the plant from relevant utility and make payment for start-up/auxiliary power, reactive power as per applicable Regulations is the sole responsibility of the HPD; and
- n) all charges pertaining to open access, scheduling charges and any other charges, losses up to the Delivery Point shall be borne by HPD.

4.2 ***Information regarding Interconnection Facilities***

- 4.2.1 The HPD shall be required to obtain all information from the STU/CTU/concerned authority with regard to the Interconnection Facilities as is reasonably necessary to enable it to design, install and operate all interconnection plant and apparatus on the HPD's side of the Interconnection/Delivery Point to enable delivery of electricity at the Delivery Point. The transmission of power up to the point of interconnection where the metering is done for energy accounting shall be the responsibility of the HPD at his own cost.
- 4.2.2 Penalties, fines and charges imposed by the CTU/ STU under any statute or regulation in relation to delay in commissioning of Project shall be payable by the HPD to the extent the delay is attributable to the HPD.
- 4.2.3 The responsibility of getting connectivity with the transmission system up to the Delivery Point including absorption of transmission losses, energy accounting etc. shall lie with the HPD at its own cost. The transmission of power up to the Delivery Point where the metering is done for energy accounting, transmission losses and infrastructure and shall be the responsibility of the HPD at his own cost. All costs and charges including but not limited to the wheeling charges and losses (taxes, royalty, cess, duties and any other involved costs whatsoever) up to the Delivery Point will be borne by the HPD.
- 4.2.4 In case of Pooling Substation, losses in the transmission line shall be apportioned among the HPDs who share such a Pooling arrangement and duly signed by all HPDs, based on their monthly generation.
- 4.2.5 Not used.
- 4.2.6 In case the commissioning of the Project gets delayed beyond the applicable date of ISTS waiver, arising out of any reasons whatsoever, TPDDL shall bear no liability with respect to transmission charges and losses levied, if any. Further, in case SCD of the Project is prior to the above deadline of waiver of ISTS charges and losses, and commissioning of the Project is delayed beyond the above date for the reasons attributable to the HPD, the applicable transmission charges and losses shall be borne by the HPD. In no case, TPDDL shall be liable to bear transmission charges and losses till the Delivery Point.

4.3 ***Purchase and sale of Contracted Capacity***

- 4.3.1 Subject to the terms and conditions of this Agreement, the HPD undertakes to sell to TPDDL and TPDDL undertakes to pay Tariff for all the energy supplied at the Delivery Point corresponding to the Contracted Capacity.
- 4.3.2 Not used.

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

- 4.4.1 The HPD will declare the CUF of the Project and will be allowed to revise the same once within three years after COD of the full project capacity. Subsequent to commissioning/part-commissioning of the Project, TPDDL, in any Contract Year except for the first year of operation, shall not be obliged to purchase any additional energy from the HPD beyond Million kWh (MU) **[Insert value of energy generated corresponding to 120% of the declared CUF for the Project]**.

If for any Contract Year except for first year of operation, it is found that the HPD has not been able

to generate minimum energy ofMillion kWh (MU) of the energy generated from the Project **[Insert value of energy generated corresponding to 90% of the declared CUF for the Project]**, on account of reasons solely attributable to the HPD, the non-compliance by HPD shall make the HPD liable to pay the compensation provided in the PPA as payable to TPDDL. The declared annual CUF shall in no case be less than 30% (thirty percent). In case of full commissioning of the Project, energy supplied between COD and the commencement of first financial year after COD will not be taken into consideration for the purpose of calculation of CUF. Subsequently, the annual CUF will be calculated every year from 1st April of the year to 31st March next year. In case of part commissioning of the Project, the above limits shall be considered on pro-rata basis till the commissioning of full Contracted Capacity of the Project.

The lower limit will, however, be relaxable by TPDDL to the extent of grid non-availability for evacuation which is beyond the control of the HPD subject to acceptance by the Appropriate Commission, if required. This compensation shall be applied to the amount of shortfall in generation during the Contract Year. The amount of such compensation shall be calculated @ 50% (fifty percent) of the PPA tariff for the shortfall in energy terms, in accordance with the terms of the PPA. This compensation shall not be applicable in events of Force Majeure identified under PPA with TPDDL affecting supply of power by HPD.

- 4.4.2 Any excess generation over and above as per Article 4.4.1, may be purchased by TPDDL at 75% (seventy-five percent) of the Tariff as per Article 9, unless TPDDL refuses to purchase such power. While the HPD would be free to install the DC solar field as per its design of required output, including its requirement of auxiliary consumption and to repower the Project from time to time during the term of the PPA, it will not be allowed to sell any excess power to any other entity other than TPDDL (unless refused by TPDDL). Further, any addition to the installed capacity (including but not limited to solar panels and/or wind turbines) subsequent to commissioning of the full capacity/part capacity of the Project (as applicable), shall not be eligible for any future claims made by the HPD, seeking compensation on account of any changes in the applicable provisions covered under Change in Law as defined in this Agreement.

The HPD shall be required to intimate TPDDL about the proposed excess quantum of energy likely to be generated from the Project within any Contract Year, at least 60 days prior to the proposed date of commencement of excess generation. TPDDL shall be required to intimate its approval/refusal to the HPD, for buying such excess generation not later than 30 days of receiving the above offer from the HPD. In the event the offer of the HPD is not accepted by TPDDL within the said period of 30 days, such right shall cease to exist and the HPD shall, at its sole discretion, may sell such excess power to any third party.

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

- 4.4.3 Any energy produced and flowing into the grid before Scheduled Commissioning Date shall not be at the cost of Tata Power-DDL. Tata Power-DDL may agree to buy such power at a PPA tariff.

4.5 *Extensions of Time*

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

- a) any TPDDL Event of Default; or

b) Force Majeure Events affecting TPDDL

c) Force Majeure Events affecting the HPD,

the Scheduled Commissioning Date and the Expiry Date shall be deferred, subject to Article 4.5.6, for a reasonable period but not less than 'day for day' basis, to permit the HPD or TPDDL through the use of due diligence, to overcome the effects of the Force Majeure Events affecting the HPD or TPDDL, or till such time such Event of Default is rectified by TPDDL.

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

- a) The HPD has complied with the complete application formalities as per RfS,
- b) The HPD has adhered to the applicable Procedure in this regard as notified by the CERC/DERC/ JERC/ CTU/ STU, and
- c) The delay in grant of connectivity/LTA by the CTU/ STU and/or delay in readiness of the ISTS/ InSTS substation, including readiness of the power evacuation and transmission infrastructure of the ISTS/ InSTS network, is a factor solely attributable to the CTU/ STU/ transmission licensee and is beyond the control of the HPD;

The above shall be treated as delays beyond the control of the HPD and SCD for such Projects shall be eligible for suitable time extension. Decision on requisite extension on account of the above factor shall be taken by TPDDL. Further, any delay in adoption of tariff by the Appropriate Commission, beyond 60 (sixty) days after the submission of this PPA for the approval by the Appropriate Commission, shall entail a corresponding extension in Scheduled Commissioning Date. In any case, the liability of transmission charges and losses up to the Delivery Point shall remain with the Seller/ HPD.

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, any Party may raise the Dispute to be resolved in accordance with Article 16.

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

4.5.6 Notwithstanding anything to the contrary contained in this Agreement, any extension of the Scheduled Commissioning Date arising due to any reason envisaged in this Agreement shall not be allowed beyond the date pursuant to Article 4.6.2.

- 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 and Article 4.5.2 shall be an event of default on part of the HPD and shall be subject to the consequences specified in the Article 4.6.

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

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

- (a) Delay beyond the Scheduled Commissioning Date upto (and including) the date as on 6 (six) months after the Scheduled Commissioning Date: The total PBG amount shall be encashed on per day basis and proportionate to the balance capacity not commissioned. For example, in case of a Project of 240 MW capacity, if commissioning of 100 MW capacity is delayed by 18 days beyond the SCD, then the liquidated damages shall be: $\text{PBG amount} \times (100/240) \times (18/180)$

- 4.6.2 The maximum time period allowed for commissioning of the full Project Capacity with encashment of Performance Bank Guarantee shall be limited to the date as on 6 (six) months from the SCD of the Project which extension shall be granted at the sole discretion of TPDDL.

- (a) In case, the Commissioning of the Project is delayed beyond 6 (six) months from the SCD, it shall be considered as an HPD Event of Default and provisions of Article 13 shall apply and the Contracted Capacity shall stand reduced / amended to the Project Capacity commissioned within such 6 (six) months after the SCD and the PPA for the balance non-commissioned capacity will stand terminated and shall be reduced from the Project Capacity.
- (b) In case of delay in commissioning of the Project due to reasons beyond the reasonable control of the HPD, TPDDL may extend the SCD after examining the issue on a case-to-case basis subject to approval from Appropriate Commission/Authority. However, TPDDL will not be liable for any transmission charges liability (CTU waiver for Transmission charges applicable presently till June'2025) arising out of such delay by HPD/ reasons beyond control of HPD or any other reason whatsoever.
- (c) It is to be noted that commissioning/part commissioning of the Project will not be declared until the HPD demonstrates possession of land in line with Article 4.1.1 above, in addition to the other requirements for commissioning set out therein. For part-commissioning, portion of land on which the part of the Project is commissioned should be under clear possession of the HPD in accordance with Article 4.1.1.

- 4.6.3 The HPD further acknowledges that the amount of the liquidated damages fixed herein is a genuine and reasonable pre-estimate of the damages that are likely to be suffered by TPDDL as specified under this Agreement for breach by the HPD of this Agreement.

4.7 Acceptance/Performance Test

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

4.8 Third Party Verification

- 4.8.1 The HPD shall be further required to provide entry to the site of the Power Project free of all encumbrances at all times during the Term of the Agreement to TPDDL and a third Party nominated by any Indian Governmental Instrumentality/TPDDL for inspection and verification of the works being carried out by the HPD at the site of the Power Project.
- 4.8.2 The third party may verify the construction works/operation of the Power Project being carried out by the HPD and if it is found that the construction works/operation of the Power Project is not as per the Prudent Utility Practices, it may seek clarifications from HPD or require the works to be stopped or to comply with the instructions of such third party.

4.9 Breach of Obligations

- 4.9.1 The Parties herein agree that during the subsistence of this Agreement, subject to TPDDL being in compliance of its obligations and undertakings under this Agreement, the HPD would have no right to negotiate or enter into any dialogue with any third party for the sale of Contracted Capacity of power which is the subject matter of this Agreement. It is the specific understanding between the Parties that such bar will apply throughout the entire term of this Agreement.

4.10 Generation compensation for Off-take constraints

- 4.10.1 Not used.
- 4.10.2 Offtake constraints due to Backdown: The Hybrid Power Developer and TPDDL shall follow the forecasting and scheduling process as per the regulations in this regard by the Appropriate Commission. The Government of India, as per Clause 5.2 (u) of the Indian Electricity Grid Code (IEGC), encourages a status of “must-run” to wind and solar power projects. Therefore wind solar hybrid power plant, duly commissioned, should never be directed to back down by a Discom/ Load Dispatch Centre (LDC) In case of backdown, including non-dispatch of power due to non-compliance with "Order No. 2312212019-R&R dated 28.06.2019 of Ministry of Power regarding Opening and maintaining of adequate Letter of Credit (LC) as Payment Security Mechanism under Power Purchase Agreements by Distribution Licensees" and any clarifications or amendment thereto, the Power Generator shall be eligible for a Minimum Generation Compensation, from TPDDL, in the manner detailed below:

Duration of Backdown	Provision for Generation Compensation
Hours of Backdown during a monthly billing cycle.	<p><i>Minimum Generation Compensation = 100% of [(Average Generation per hour during the month) (number of backdown hours during the month) x PPA Tariff]</i></p> <p><i>Where, Average Generation per hour during the month (kWh) = Total generation in the month (kWh) ÷ Total hours of generation in the month</i></p>

The Generation Compensation as calculated above, will be limited to the extent of shortfall in annual generation corresponding to the maximum CUF permitted and shall be paid as part of the energy bill for the successive month after receipt of Regional Energy Accounts (REA)/SEA/JMR.

No compensation shall be payable, however, if the backdown/ curtailment is on account of

considerations of grid security/ safety. Such a backdown will be recorded and reported to RLDC/ NLDC. RLDC/ NLDC will examine the issue of grid safety/ security and give a finding that the issue of grid safety existed.

It is hereby clarified that for the purpose of Article 4.10, “generation” shall mean scheduled energy based on Energy Accounts. Notwithstanding anything mentioned above, the provisions of Article 4.10 shall be applicable subject to the acceptance of the same by the TPDDL.

ARTICLE 5: SYNCHRONISATION, COMMISSIONING AND COMMERCIAL OPERATION

5.1 Synchronization, Commissioning and Commercial Operation

- 5.1.1 The HPD shall give the concerned RLDC/SLDC and TPDDL at least sixty (60) days’ advanced preliminary written notice and at least thirty (30) days’ advanced final written notice of the date on which it intends to synchronize the Power Project to the Grid System.
- 5.1.2 Subject to Article 5.1.1, the Power Project may be synchronized by the HPD to the Grid System when it meets all the connection conditions prescribed in applicable Grid Code then in effect and otherwise meets all other Indian legal requirements for synchronization to the Grid System.
- 5.1.3 The synchronization equipment and all necessary arrangements / equipment including RTU for scheduling of power generated from the Project and transmission of data to the concerned authority as per applicable regulation shall be installed by the HPD at its generation facility of the Power Project at its own cost. The HPD shall synchronize its system with the Grid System only after the approval of synchronization scheme is granted by the head of the concerned substation/Grid System and checking/verification is made by the concerned authorities of the Grid System.
- 5.1.4 The HPD shall immediately after each synchronization/tripping of generator, inform the sub-station of the Grid System to which the Power Project is electrically connected in accordance with applicable Grid Code under intimation to TPDDL. In addition, the HPD will inject in-firm power to grid time to time to carry out operational/ functional test prior to commercial operation. For avoidance of doubt, it is clarified that Synchronization / Connectivity of the Project with the grid shall not to be considered as Commissioning of the Project.
- 5.1.5 The HPD shall commission the Project as detailed in “Schedule 2: Commissioning Procedure” within SCD as per this Agreement. Declaration of COD / UCOD shall only be done subject to the demonstration of the compliances as per Schedule-2 and subsequent upon the successful visit by the Commissioning Committee.
- 5.1.6 There can be part Commissioning of the Project. Part commissioning of the project shall mean that all equipment corresponding to the part capacity have been installed and commissioned and corresponding energy has flown into the grid.
- 5.1.7 The Parties agree that for the purpose of commencement of the supply of electricity by HPD to TPDDL, liquidated damages for delay etc., the Scheduled Commissioning Date or extended Scheduled Commissioning Date as defined in this Agreement shall be the relevant date.

5.1.8 Early Commissioning

The HPD shall be permitted for full commissioning as well as part commissioning of the Project even prior to the Scheduled Commissioning Date, subject to availability of transmission connectivity and

Long-Term/ Medium Term/ Short Term Access. Early commissioning of the Project will be allowed solely at the risk and cost of the HPD, and TPDDL shall purchase the energy from such early commissioned Project at the PPA tariff. Such intimation for early commissioning shall be provided to TPDDL at least 15 (fifteen) days before the proposed early commissioning date. In case there is no response provided by TPDDL within 30 (thirty) days from the receipt of such intimation, such early commissioned capacity shall be deemed to have been rejected by TPDDL.

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

ARTICLE 6: DISPATCH AND SCHEDULING

6.1 *Dispatch and Scheduling*

- 6.1.1 The HPD shall be required to schedule its power as per the applicable regulations / requirements / guidelines of CERC / SERC / SLDC / RLDC or any other competent agency and same being recognized by the SLDC or any other competent authority / agency as per applicable regulation/ law / direction and maintain compliance to the applicable Codes/ Grid Code requirements and directions, if any, as specified by concerned SLDC/RLDC from time to time. Any deviation from the Schedule will attract the provisions of applicable regulation / guidelines / directions and any financial implication on account of this shall be on the account of the HPD.
- 6.1.2 The HPD shall be responsible for directly coordinating and dealing with TPDDL, State Load Dispatch Centre's, Regional Power Committees, and other authorities in all respects in regard to declaration of availability, scheduling and dispatch of hybrid Power and due compliance with deviation and settlement mechanism and the applicable Grid code Regulations, acknowledging that the HPD and TPDDL are the Grid connected entities in respect of the power contracted under this Agreement.
- 6.1.3 The HPD shall be responsible for any deviation from scheduling and for any resultant liabilities on account of charges for deviation as per applicable regulations. UI charges on this account shall be directly paid by the HPD.
- 6.1.4 Auxiliary power consumption will be treated as per the concerned state regulations.

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 HPD and TPDDL shall follow and be bound by the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, the Grid Code, as amended and revised from time to time.
- 7.1.2 The HPD shall bear all costs pertaining to installation, testing, calibration, maintenance, renewal and repair of meters at HPD's side of Interconnection/Delivery Point.
- 7.1.3 In addition to ensuring compliance of the applicable codes, the HPD shall install Main and Check

meters at the Interconnection Point, along with Stand-by meter(s) as per the applicable Central/State regulations.

- 7.1.4 In case of pooling of multiple Projects, power from multiple Projects can be pooled at a Pooling Substation prior to the Interconnection points /Delivery point and the combined power can be fed at Interconnection point through a common transmission line from the Pooling Substation. In such cases, ABT compliant sub-meters (two meters, each with separate CT, PT) are also to be set up at pooling substation for individual projects in addition to the meters at Interconnection Point as described in clause 7.1.3.

7.2 Performance Monitoring/ Reporting of Metered Data and Parameters

- 7.2.1 All hybrid power plants will install necessary equipment to continuously measure wind and solar resource data such as ambient air temperature, wind speed and other weather parameters and electrical parameters such as the electric power generated from the plant.
- 7.2.2 Online arrangement would have to be made by the HPD for submission of above data regularly for the entire period of the Power Purchase Agreement to the SLDC, TPDDL, National Institute of Wind Energy (NIWE) and/or other concerned Ministry and/or designated agency as per applicable regulations / directions/Guidelines.
- 7.2.3 Reports on above parameters on monthly basis (or as required by regulation / Guidelines) shall also be submitted by the HPD to Ministry of New and Renewable Energy/ TPDDL /National Institute of Solar Energy as per requirement.

ARTICLE 8: INSURANCE

8.1 Insurance

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

8.2 Application of Insurance Proceeds

- 8.2.1 In case of the Project not being implemented through Financing Agreement(s), save as expressly provided in this Agreement or the Insurances, the proceeds of any insurance claim made due to loss or damage to the Power Project or any part of the Power Project shall be first applied to reinstatement, replacement or renewal of such loss or damage.
In case of the Project being financed through Financing Agreement(s), save as expressly provided in this Agreement or the Insurances, the proceeds of any insurance claim made due to loss or damage to the Power Project or any part of the Power Project shall be applied as per such Financing Agreements.
- 8.2.2 If a Force Majeure Event renders the Power Project no longer economically and technically viable and the insurers under the Insurances make payment on a “total loss” or equivalent basis, TPDDL shall have claim on such proceeds of such Insurance limited to outstanding dues of TPDDL against HPD.

8.3 Effect on liability of TPDDL

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

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

ARTICLE 9: APPLICABLE TARIFF

- 9.1 The HPD shall be entitled to receive the Tariff of Rs. / kWh [*Insert the Tariff discovered through the bidding process conducted by TPDDL*], fixed for the entire term of this Agreement, with effect from the SCD, for the power sold to TPDDL for the scheduled energy as reflected in the Energy Accounts. In case of early commissioning, subject to the consent for such purchase by TPDDL, TPDDL may purchase the generation at the PPA tariff.
The Parties agree that decisions of the Appropriate Commission pertaining to adoption of the Tariff and approval of the same, for procurement of Contracted Capacity, shall be binding on all Parties concerned, in accordance with the Electricity Act and any amendments thereof.
- 9.2 Any excess generation over and above energy specified in Article 4.4.1, may be purchased by TPDDL at the tariff as per Article 4.4.2. However, the HPD will not be allowed to sell energy generated prior to SCD or excess energy during any Contract Year to any other entity other than TPDDL (unless refused by TPDDL).
- 9.3 Early commissioning of the Project will be allowed solely at the risk and cost of the HPD, and TPDDL shall purchase the energy from such early commissioned Project at the PPA tariff. Such intimation for early commissioning shall be provided to TPDDL at least 15 (fifteen) days before the proposed early commissioning date. In case there is no response provided by TPDDL within 30 (thirty) days from the receipt of such intimation, such early commissioned capacity shall be deemed to have been rejected by TPDDL. In case of early part commissioning, till the achievement of full commissioning or SCD, whichever is earlier, TPDDL shall purchase such generation at the PPA tariff.

ARTICLE 10: BILLING AND PAYMENT

10.1 *General*

10.1.1 Not used.

10.1.2 From the commencement of supply of power, TPDDL shall pay to the HPD the monthly Tariff Payments subject to the adjustments as per provisions of this Agreement including Article 6, in accordance with Article 9. All Tariff Payments by TPDDL shall be in Indian Rupees.

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

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

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

10.2.1 The HPD shall issue to TPDDL hard copy of a signed Monthly Bill/Supplementary Bill for the immediately preceding Month/relevant period based on the issuance of Energy Accounts along with all relevant documents (payments made by HPD for drawl of power, payment of reactive energy charges, Metering charges or any other charges as per guidelines of SERC/CERC, if applicable).

Each Monthly Bill shall include all charges as per this Agreement for the energy supplied for the relevant Month based on Energy Accounts issued by RPC or any other competent authority which shall be binding on both the Parties. The Monthly Bill amount shall be the product of the energy as per Energy Accounts and the Applicable Tariff. Energy drawn from the grid will be regulated as per the applicable central/ state regulations.

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

10.3 *Payment of Monthly Bills*

10.3.1 TPDDL shall pay the amount payable under the Monthly Bill/Supplementary Bill by the Due Date to such account of the HPD, as shall have been previously notified by the HPD as below.

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

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

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

day.

10.3.3 Late Payment Surcharge

In the event of delay in payment of a Monthly Bill by TPDDL beyond its Due Date, a Late Payment Surcharge shall be payable to the HPD at the rate of 1.50% per month as provided in the DERC, Tariff Regulations, 2017. The Late Payment Surcharge shall be claimed by the HPD 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 TPDDL, the payment for the power fed to the grid may be accounted from the date of UCOD, and HPD would be allowed to raise bills against such power as per Article 10.2.1, subject to conditions as stipulated in Article 9. However, the payment against the 1st such bill raised by the HPD, will be made subject to acceptance of the bill by TPDDL.

10.3.5 Rebate

For payment of any Bill on or before Due Date, the following Rebate shall be given by the HPD to TPDDL in the following manner or in such other manner as may be provided under the DERC, Tariff Regulations, 2017: -

- a) A Rebate of 2% shall be applicable to TPDDL for the payments made within 2 (two) days from the date of presentation of hard copy of Bill.
- b) Any payments made after two (2) days and within a period of 30 (thirty) days from the date of presentation of Bill through hard copy shall be allowed a rebate of 1 %.
- c) For the above purpose, the date of presentation of Bill shall be the next Business Day of delivery of the physical copy of the Bill at TPDDL.
- d) No Rebate shall be payable on the Bills raised on account of Change in Law (except in case of annuity tariff model being implemented, where rebate will be applicable) relating to taxes, duties, cess etc. and on Supplementary Bill.

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

10.4 Payment Security Mechanism Letter of Credit (LC):

- 10.4.1 TPDDL shall provide to the HPD, 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 HPD in accordance with this Article.
- 10.4.2 Before the start of supply, TPDDL through a scheduled bank shall open a Letter of Credit in favour of the HPD, to be made operative from a date prior to the Due Date of its first Monthly Bill under this Agreement. The Letter of Credit shall have a term of twelve (12) Months and shall be renewed annually, for an amount equal to:
- i) for the first Contract Year, equal to the estimated average monthly billing;
 - ii) for each subsequent Contract Year, equal to the average of the monthly billing of the previous Contract Year.
- 10.4.3 Provided that the HPD 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 drawal in a Month.
- 10.4.4 Provided further that if at any time, such Letter of Credit amount falls short of the amount specified in

Article 10.4.2 due to any reason whatsoever, TPDDL shall restore such shortfall within fifteen (15) days.

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

10.4.6 TPDDL 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 TPDDL.

10.4.8 If TPDDL fails to pay undisputed Monthly Bill or Supplementary Bill or a part thereof within and including the date as on 30 (thirty) days beyond the Due Date, then, subject to Article 10.4.6 and 10.5.2, the HPD may draw upon the Letter of Credit, and accordingly the bank shall pay without any reference or instructions from TPDDL, 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 which has remained unpaid to HPD and;
- ii) a certificate from the HPD to the effect that the bill at item (i) above, or specified part thereof, is in accordance with the Agreement and has remained unpaid beyond the Due Date.

10.4 A Payment Security Fund

10.4A. 1 TPDDL in addition to the Letter of Credit, shall also open and maintain a payment security fund (“**Payment Security Fund**”) which may be drawn upon by the HPD in accordance with this Article.

10.4A.2 The Payment Security Fund shall have a corpus equal to the estimated 3 (three) months billing for the Project and shall be maintained in such form as may be mutually agreed between the Parties or as provided under applicable law.

10.4A.3 The HPD may draw upon the Payment Security Fund in the event, the Letter of Credit is not replenished by TPDDL within the time provided hereunder.

10.5 Disputed Bill

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

10.5.2 If the TPDDL disputes the amount payable under a Monthly Bill or a Supplementary Bill, as the case may be, it shall pay 90% 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 HPD agrees to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.5.2, the HPD shall revise such Bill and present along with the next Monthly Bill. In such a case excess amount shall be refunded along with interest at the same rate as Late Payment Surcharge, which shall be

applied from the date on which such excess payment was made by the disputing Party to the invoicing Party and up to and including the date on which such payment has been received as refund.

10.5.4 If the HPD does not agree to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.5.2, it shall, within fifteen (15) days of receiving the Bill Dispute Notice, furnish a notice (“**Bill Disagreement Notice**”) to the TPDDL 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 TPDDL under Article 10.5.4, authorized representative(s) or a director of the board of directors/ member of board of the TPDDL and HPD shall meet and make best endeavours to amicably resolve such dispute within fifteen (15) days of receipt of the Bill Disagreement Notice.

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

10.5.7 For the avoidance of doubt, it is clarified that despite a Dispute regarding an invoice, TPDDL shall, without prejudice to its right to Dispute, be under an obligation to make payment of 90% 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 (thirty) 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 (thirty) days to take into account the Energy Accounts, Tariff adjustment payments, Tariff Rebate, Late Payment Surcharge, or any other reasonable circumstance provided under this Agreement.

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

10.7 Payment of Supplementary Bill

10.7.1 HPD may raise a (“**Supplementary Bill**”) for payment on account of:

- i) Adjustments required by the Energy Accounts (if applicable); or
- ii) Change in Law as provided in Article 12, or
- iii) Payment under Article 4.10,

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

- 10.7.2 TPDDL shall remit amounts due under a Supplementary Bill raised by the HPD to the HPD's Designated Account by the Due Date as per the conditions specified in the PPA. For Supplementary Bill on account of adjustment required by energy account and payments under Article 4.10, Rebate as applicable to Monthly Bills pursuant to Article 10.3.5 shall equally apply.
- 10.7.3 In the event of delay in payment of a Supplementary Bill by either Party beyond its Due Date, a Late Payment Surcharge shall be payable at the same terms applicable to the Monthly Bill in Article 10.3.3.

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 the relevant Power Purchase Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the Affected Party and could not have been avoided if the Affected Party had taken reasonable care or complied with Prudent Utility Practices.

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

11.2 Categorization of Force Majeure Events:

11.2.1 Natural Force Majeure Event

- a) Act of God, including, but not limited to lightning, drought, fire and explosion (to the extent originating from a source external to the site), earthquake, volcanic eruption, landslide, flood, cyclone, typhoon or tornado if it is declared / notified by the competent state / central authority / agency (as applicable), or verified to the satisfaction of Procurer;
- b) radioactive contamination or ionising radiation originating from a source in India or resulting from another Force Majeure Event mentioned above excluding circumstances where the source or cause of contamination or radiation is brought or has been brought into or near the Project by the Affected Party or those employed or engaged by the Affected Party;
- c) the discovery of geological conditions, toxic contamination or archaeological remains on the Project land that could not reasonably have been expected to be discovered through an inspection of the Project land; or
- d) any event or circumstances of a nature analogous to any of the events as specified under Article 11.2.1 (a), 11.2.1 (b) and 11.2.1 (c).

11.2.2 Non-Natural Force Majeure Event

- a) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action;
- b) nation/state-wide strike, lockout, lockdown, boycotts or other industrial disputes which are not directly and solely attributable to the actions of the Affected Party, but does not include strike or labour unrest limited to the Affected Party or its contractors;

- c) nationalisation or any compulsory acquisition by any Indian Governmental Instrumentality/ State Government in national interest or expropriation of any material Project assets or rights of the HPD, as a result of which the HPD or its shareholders are deprived (wholly or partly) of their rights or entitlements under the Power Purchase Agreement. Provided that such action does not constitute remedies or sanctions lawfully exercised by the Procurer or any other Government Authority as a result of any breach of any of the applicable Laws or the Applicable Permits by the HPD or the HPD related parties;
- d) action of a Government Authority having Material Adverse Effect including but not limited to Change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Article 12 of this Agreement; any unlawful or unauthorised or without jurisdiction revocation of, or delay in, or refusal, or failure to renew or grant without valid cause, any Permits of the HPD or any of the clearance, licence, authorization to be obtained by the contractors to perform their respective obligations under the relevant PPA and/or the Project Documents; provided that such delay, modification, denial, refusal or revocation did not result from the HPD's or any contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such Permits or clearance, licence, authorization, as the case may be.

11.3 Force Majeure Exclusions

- 11.3.1 Force Majeure shall not include (i) any event or circumstance which is within the reasonable control of the Parties and (ii) the following conditions, except to the extent that they are consequences of an event of Force Majeure:
 - a. Unavailability, late delivery, or changes in cost of the plant, machinery, equipment, materials, spare parts or consumables for the Power Project;
 - b. Delay in the performance of any contractor, sub-contractor or their agents;
 - c. Non-performance resulting from normal wear and tear typically experienced in power generation materials and equipment;
 - d. Strikes at the facilities of the Affected Party;
 - e. Insufficiency of finances or funds or the agreement becoming onerous to perform; and
 - f. Non-performance caused by, or connected with, the Affected Party's:
 - i. Negligent or intentional acts, errors or omissions;
 - ii. Failure to comply with an Indian Law; or
 - iii. Breach of, or default under this Agreement.
 - g. Non-Availability of Land shall not be construed as a Force Majeure event.

11.4 Notification of Force Majeure Event

- 11.4.1 The Affected Party shall give notice to the other Party of any event of Force Majeure as soon as reasonably practicable, within 7 (seven) 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.
- 11.4.2 Provided that such notice shall be a pre-condition to the Affected Party's entitlement to claim relief under the PPA. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed. The Affected Party shall give the other Party regular (and not less than weekly) reports on the progress of those remedial measures and such

other information as the other Party may reasonably request about the Force Majeure Event.

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

11.5 Performance Excused

- 11.5.1 The Affected Party, to the extent rendered unable to perform its obligations or part of the obligation thereof under the PPA as a consequence of the Force Majeure Event, shall be excused from performance of the obligations, provided that the period shall not exceed 180 (one hundred and eighty) Days from the date of issuance of the notice of Force Majeure Event. The Parties may mutually agree to extend the period for which performance is excused due to a Force Majeure Event.
- 11.5.2 For the time period, as mutually agreed by the Parties, during which the performance shall be excused, the generator shall be entitled for a day to day extension of the period provided for Financial Closure or Scheduled Commissioning Period or the PPA period, as the case may be.
- 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 PPA. The Affected Party shall also make efforts to resume performance of its obligations under this Agreement as soon as possible and upon resumption, shall notify other Parties of the same in writing. The other Parties shall afford all reasonable assistance to the Affected Party in this regard.

11.8 Duty to Perform and Duty to Mitigate

To the extent not prevented by a Force Majeure Event pursuant to Article 11.2, the Affected Party shall continue to perform its obligations pursuant to this Agreement, in line with provisions of Article 11.5. 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 Termination Due to Force Majeure Event

11.10.1 Termination due to Natural Force Majeure Event

- a) If, prior to the completion of the 180 (one hundred and eighty) day period (or any extended period) for a Natural Force Majeure Event commencing from the date of issuance of the Force Majeure Notice, the Parties are of the reasonable view that a Natural 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 PPA, and the termination shall take effect from the date on which such decision is taken.
- b) Without prejudice to the provisions of Article 11.10.1.(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 PPA in its sole discretion by issuing a notice to that effect.
- c) On termination of the PPA pursuant to Article 11.10.1(b):
 - i. no Termination Compensation shall be payable to the HPD.
 - ii. the HPD shall be eligible for undisputed payments under outstanding Monthly Bill(s), before the occurrence of Force Majeure Event.

11.10.2 Termination due to Non-Natural Force Majeure Event

- a) Upon occurrence of a Non-Natural Force Majeure Event, the HPD shall, at its discretion, have the right to terminate the PPA forthwith after the completion of the period of 180 (one hundred and eighty) Days from the date of the Force Majeure Notice.
- b) On termination of the PPA pursuant to Article 11.10.2(a):
 - i. The HPD 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 the last date of the bid submission, (i) the enactment of any new law; or (ii) an amendment, modification or repeal of an existing law; or (iii) the requirement to obtain

a new consent, permit or license; or (iv) any modification to the prevailing conditions prescribed for obtaining a consent, permit or license, not owing to any default of the Hybrid Power Developer; or (v) any change in the rates of any taxes including any duties and cess or introduction of any new tax made applicable for setting up the power project and supply of power from the Project by the HPD which have a direct effect on the Project.

However, Change in Law shall not include (i) any change in taxes on corporate income or (ii) any change in any withholding tax on income or dividends distributed to the shareholders of the HPD or (iii) any imposition of basic customs duty in terms of the MNRE Office Memorandum bearing reference number No. 283/3/2018 – GRID SOLAR dated 09.03.2021.

- 12.1.2 In the event of occurrence of any of events as provided under Article 12.1.1 which results in any increase/ decrease in the Project Cost (i.e. cost incurred by the HPD towards supply and services only for the Project concerned, upto Scheduled Commissioning Date or extended Scheduled Commissioning Date, as the case may be), the HPD or TPDDL shall be entitled for compensation by the other party, as the case may be, subject to the condition that such 'Change in Law' is approved by the Appropriate Commission. 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.
- 12.1.3 However, in case of change in rates of GST after last date of bid submission and resulting in change in Project Cost, then such change will be treated as 'Change in Law' and the quantum of compensation payment on account of change in rates of such duties shall be provided to the affected party by the other party as per Article 12 subject to the provision that Appropriate Commission approved such provisions at the time of adoption of tariff by the Appropriate Commission and any decision in this regard shall be governing on both the Parties.

12.2 *Relief for Change in Law*

- 12.2.1 The aggrieved Party shall be required to approach the Appropriate Commission for seeking approval of Change in Law.
- 12.2.2 The decision of the Appropriate Commission to acknowledge a Change in Law and the date from which it will become effective, provide relief for the same, shall be final and governing on both the Parties.
- 12.2.3 In case change in law results in delay in commissioning of supply of power, where cause and effect between these two can be clearly established, TPDDL may provide suitable time-extension in Scheduled Commissioning Date or Scheduled Date of Commencement of supply of Power, as the case may be.
- 12.2.4 In the event of any decrease in the Project Cost by the HPD or any income to the HPD on account of any of the events as indicated above, HPD shall pass on the benefits of such reduction to TPDDL as may be approved by the Appropriate Commission. In the event of HPD failing to comply with the above requirement, TPDDL shall make such deductions in the monthly tariff payments on immediate basis. Further, at the time of raising of 1st monthly tariff payment bill, HPD shall be required to provide a statutory auditor certificate supported by Board resolution in regard to implications (loss/ gain arising out of Article 12).

12.3 *Notification of Change in Law*

- 12.3.1 If the HPD is affected by Change in Law in accordance with Article 12 and wishes to claim a Change in Law under this Article, it shall give notice to TPDDL as soon as reasonably practicable (but no later than 60 (sixty) days from the date of occurrence of such Change in Law).

- 12.3.2 Any notice service pursuant to Article 12.3.1 and 12.1.3, shall provide, amongst other things, precise details of the Change in Law and its effect on the Project Cost, supported by documentary evidences including Statutory Auditor Certificate to this effect so as to establish one to one correlation and its impact on the Project Cost.

ARTICLE 13: EVENTS OF DEFAULT AND TERMINATION

13.1 HPD Event of Default

- 13.1.1 The occurrence and/or continuation of any of the following events, unless any such event occurs as a result of a Force Majeure Event or a breach by TPDDL of its obligations under this Agreement, shall constitute an HPD Event of Default:
- (i) the failure to commence supply of power to TPDDL up to the Contracted Capacity, by the end of the period specified in Article 4, or failure to continue supply of Contracted Capacity to TPDDL after Commercial Operation Date throughout the term of this Agreement, or if
 - a) the HPD assigns, mortgages or charges or purports to assign, mortgage or charge any of its assets or rights related to the Power Project in contravention of the provisions of this Agreement; or
 - b) the HPD transfers or novates any of its rights and/or obligations under this agreement, in a manner contrary to the provisions of this Agreement; except where such transfer
 - is in pursuance of a Law; and does not affect the ability of the transferee to perform, and such transferee has the financial capability to perform, its obligations under this Agreement; or
 - is to a transferee who assumes such obligations under this Agreement and the Agreement remains effective with respect to the transferee;
 - (ii) if (a) the HPD becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of thirty (30) days, or (b) any winding up or bankruptcy or insolvency order is passed against the HPD, or (c) the HPD goes into liquidation or dissolution or has a receiver or any similar officer appointed over all or substantially all of its assets or official liquidator is appointed to manage its affairs, pursuant to Law, provided that a dissolution or liquidation of the HPD will not be a HPD Event of Default if such dissolution or liquidation is for the purpose of a merger, consolidation or reorganization and where the resulting company retains creditworthiness similar to the HPD and expressly assumes all obligations of the HPD under this Agreement and is in a position to perform them; or
 - (iii) the HPD repudiates this Agreement and does not rectify such breach within a period of thirty (30) days from a notice from TPDDL in this regard; or
 - (iv) except where due to any TPDDL's failure to comply with its material obligations, the HPD is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the HPD within thirty (30) days of receipt of first notice in this regard given by TPDDL; or
 - (v) change in controlling shareholding before the specified time frame as mentioned in Article 4.1.1 of this Agreement; or
 - (vi) occurrence of any other event which is specified in this Agreement to be a material breach/ default of the HPD; or

13.2 TPDDL Event of Default

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

- (i) TPDDL fails to pay (with respect to a Monthly Bill or a Supplementary Bill), subject to Article 10.5, for a period of ninety (90) days after the Due Date and the HPD is unable to recover the amount outstanding to the HPD through the Letter of Credit or the Payment Security Fund,
- (ii) TPDDL repudiates this Agreement and does not rectify such breach even within a period of sixty (60) days from a notice from the HPD in this regard; or
- (iii) except where due to any HPD's failure to comply with its obligations, TPDDL is in material breach of any of its obligations pursuant to this Agreement, and such material breach is not rectified by TPDDL within sixty (60) days of receipt of notice in this regard from the HPD to TPDDL; or if
 - TPDDL 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 TPDDL,
 - TPDDL 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 TPDDL Event of Default, where such dissolution or liquidation of Buyer or TPDDL 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 TPDDL and expressly assumes all obligations of TPDDL and is in a position to perform them;
- (iv) Not used.
- (v) Occurrence of any other event which is specified in this Agreement to be a material breach or default of TPDDL.

13.3 Procedure for cases of HPD Event of Default

13.3.1 Upon the occurrence and continuation of any HPD Event of Default under Article 13.1, TPDDL shall have the right to deliver to the HPD, with a copy to the representative of the lenders to the HPD with whom the HPD has executed the Financing Agreements, a notice stating its intention to terminate this Agreement (TPDDL 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 TPDDL 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 HPD Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, TPDDL may terminate this Agreement by giving a written Termination Notice of sixty (60) days to the HPD.
- 13.3.5 Subject to the terms of this Agreement, upon occurrence of a HPD Event of Default under this Agreement, the HPD shall be liable to pay to TPDDL, liquidated damages, as provided in Article 4.6 of the PPA for failure to commission within stipulated time and Article 4.4.1 for failure to supply power in terms of the PPA. For other cases, the HPD shall be liable to pay to TPDDL, damages, equivalent to 6 (six) months, or balance PPA period whichever is less, of charges for its Contracted Capacity. TPDDL shall have the right to recover the said damages by way of forfeiture of bank guarantee, if any, without prejudice to resorting to any other legal course or remedy. In addition to the levy of damages as aforesaid, the lenders in concurrence with TPDDL, may exercise their rights, if any, under Financing Agreements, to seek substitution of the HPD by a selectee for the residual period of the Agreement, for the purpose of securing the payments of the total debt amount from the HPD and performing the obligations of the HPD.
- 13.3.6 The lenders in concurrence with the TPDDL, may seek to exercise right of substitution under Article 13.3.5 by an amendment or novation of the PPA in favour of the selectee. The HPD shall cooperate with TPDDL to carry out such substitution and shall have the duty and obligation to continue to operate the Power Project in accordance with this PPA till such time as the substitution is finalized.
- 13.3.7 Not Used.

13.4 Procedure for cases of TPDDL Event of Default

- 13.4.1 Upon the occurrence and continuation of any TPDDL Event of Default specified in Article 13.2, the HPD shall have the right to deliver to TPDDL, a HPD Preliminary Default Notice, which notice shall specify in reasonable detail the circumstances giving rise to its issue.
- 13.4.2 Following the issue of a HPD Preliminary Default Notice, the Consultation Period of 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 210 (two hundred ten) days following the expiry of the Consultation Period and unless the Parties shall have otherwise agreed to the contrary or TPDDL Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, TPDDL and the HPD shall, subject to the prior consent of the HPD, novate its part of the PPA to any third party, including its Affiliates within the stipulated period. In the event the aforesaid novation is not acceptable to the HPD, or if no offer of novation is made by TPDDL within the stipulated period, then the HPD may terminate the PPA at its discretion and TPDDL shall pay to the HPD, damages, equivalent to 6 (six) months, or balance PPA period whichever is less, of charges for its Contracted Capacity, with the Project assets being retained by the HPD.

Provided further that at the end of three (3) months period from the period mentioned in this Article 13.4.4, this Agreement may be terminated by the HPD. In the event of termination of PPA, any damages or charges payable to the STU/ CTU, for the connectivity of the plant, shall be borne by TPDDL.

13.5 Not Used.

ARTICLE 14: LIABILITY AND INDEMNIFICATION

14.1 Indemnity

14.1.1 The HPD shall indemnify, defend and hold TPDDL harmless against:

- a) any and all third party claims against TPDDL for any loss of or damage to property of such third party, or death or injury to such third party, arising out of a breach by the HPD of any of its obligations under this Agreement; and
- b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest claimed by any third party against TPDDL by reason of a breach by the HPD of any of its obligations under this Agreement, (provided that this Article 14 shall not apply to such breaches by the HPD, for which specific remedies have been provided for under this Agreement).

14.1.2 TPDDL shall cause to indemnify, defend and hold the HPD harmless against:

- a) any and all third party claims against the HPD, for any loss of or damage to property of such third party, or death or injury to such third party, arising out of a breach by TPDDL or any of its obligations under this Agreement; and
- b) any and all losses, damages, costs and expenses including reasonable legal costs, fines, penalties and interest ('Indemnifiable Losses') claimed by any third party against HPD by reason of a breach by TPDDL or 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 non-payment of such losses after a valid notice under this Article 14.3, such event shall constitute a payment default under Article 13.

14.4 Limitation on Liability

- 14.4.1 Except as expressly provided in this Agreement, neither the HPD nor TPDDL nor its/ their respective officers, directors, agents, employees, shareholders 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, shareholders, (or their respective insurers) for incidental, indirect or consequential damages, connected with or resulting from the 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 liquidated damages, payments expressly required and properly due under this Agreement), any increased expense of, reduction in or loss of power generation or equipment used therefore, irrespective of whether such claims are based upon breach of warranty , tort (including negligence, whether of buying entity , the HPD or others), strict liability, contract, breach of statutory duty, operation of law or otherwise).
- 14.4.2 TPDDL shall have no recourse against any officer, director or shareholder of the HPD or any Affiliate of the HPD or any of its officers, directors or shareholders for such claims excluded under this Article. The HPD shall have no recourse against any officer, director or shareholder of TPDDL or any affiliate of TPDDL or any of its officers, directors or shareholders for such claims excluded under this Article.

14.5 Not used

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, except to the Project Lenders or Lender's Representative as security for their debt under the Financing Agreements, other than by mutual consent between the Parties to be evidenced in writing. Such assignment shall be agreed to by TPDDL subject to the compliance of provisions contained in this Agreement and more specifically to the provisions of Article 4.1.1 of this Agreement. In no case, such assignment shall be

permissible prior to the declaration of COD.

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

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

15.2 Permitted Charges

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

ARTICLE 16: GOVERNING LAW AND DISPUTE RESOLUTION

16.1 Governing Law

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

16.2 Amicable Settlement and Dispute Resolution

- 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.(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(i).

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

16.3 Dispute Resolution

16.3.1 Dispute Resolution by the Appropriate Commission

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

16.3.2 Dispute Resolution through Arbitration

- i) If the Dispute arises out of or in connection with any claims not covered in Clause 16.3.1 (i), such Dispute shall be resolved by arbitration under the provisions of the (Indian) Arbitration and Conciliation Act, 1996 and amendments there to.
- ii) The place of arbitration shall be Delhi. The language of the arbitration shall be English.
- iii) The arbitration tribunal shall consist of three arbitrators. Each party shall appoint an arbitrator and the arbitrators so appointed shall appoint the President Arbitrator.
- iv) The Arbitration Tribunal's award shall be substantiated in writing. The Arbitration Tribunal shall also decide on the costs of the arbitration proceedings and the allocation thereof.
- v) The provisions of this Article shall survive the termination of this Agreement for any reason whatsoever.

16.4 Parties to Perform Obligations

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

ARTICLE 17: MISCELLANEOUS PROVISIONS

17.1 Amendment

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

17.2 Third Party Beneficiaries

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

17.3 Waiver

- 17.3.1 No waiver by either Party of any default or breach by the other Party in the performance of any of the

provisions of this Agreement shall be effective unless in writing duly executed by an authorised representative of such Party.

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

17.4 Confidentiality

- 17.4.1 The Parties undertake to hold in confidence this Agreement and not to disclose the terms and conditions of the transaction contemplated hereby to third parties, except:
- a) to their professional advisors;
 - b) to their officers, contractors, employees, agents or representatives, financiers, who need to have access to such information for the proper performance of their activities; or
 - c) disclosures required under Law, without the prior written consent of the other Party.

17.5 Severability

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

17.6 Notices

- 17.6.1 All notices or other communications which are required to be given under this Agreement shall be in writing and in the English language.
- 17.6.2 If to the HPD, all notices or other communications which are required must be delivered personally or by registered post or facsimile or any other method duly acknowledged to the addresses below:

Address :

Attention :

Email :

Fax. No. :

Telephone No. :

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

Address :

Attention

Email :

Fax. No. :

Telephone No. :

17.6.4 All notices or communications given by facsimile shall be confirmed by sending a copy of the same via post /E Mail 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 Companies Act, 2013.

17.9 Taxes and Duties

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

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

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

17.10 Independent Entity

17.10.1 The HPD shall be an independent contractor performing its obligations pursuant to the Agreement and nothing under this Agreement shall be deemed / construed as having granted any authority to represent / bind TPDDL in any manner whatsoever.

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

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, 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. Not used

17.13 Breach of Obligations

The Parties acknowledge that a breach of any of the obligations contained herein would result in injuries. The Parties further acknowledge that the amount of the liquidated damages or the method of calculating the liquidated damages specified in this Agreement is a genuine and reasonable pre-estimate of the damages that may be suffered by the non-defaulting party in each case specified under this Agreement.

17.14 *Order of priority in application*

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

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

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

For and on behalf of

For and on behalf of

[TPDDL]

[HPD]

Name, Designation and Address

Name, Designation and Address

Signature with seal

Signature with seal

Witness:

1.

Witness:

1.

2.

2.

SCHEDULE 1: FORMAT OF THE PERFORMANCE BANK GUARANTEE

(to be submitted separately for each Project)

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

In consideration of the ----- [Insert name of the Bidder] (hereinafter referred to as selected Hybrid Power Developer') submitting the response to RfS inter alia for selection of the Project of the capacity of MW, at[Insert name of the place] under[Insert name of the RfS], for supply of power there from on long term basis, in response to the RfS dated..... issued by Tata Power Delhi Distribution Ltd (hereinafter referred to as TPDDL) and TPDDL considering such response to the RfS of[insert the name of the selected Hybrid Power Developer] (which expression shall unless repugnant to the context or meaning thereof include its executors, administrators, successors and assignees) and selecting the Hybrid Power Project of the Hybrid Power Developer and issuing Letter of Intent No ----- to (Insert Name of selected Hybrid Power Developer) as per terms of RfS and the same having been accepted by the selected HPD resulting in a Power Purchase Agreement (PPA) to be entered into, for purchase of Power [from selected Hybrid Power Developer or a Project Company, M/s ----- {a Special Purpose Vehicle (SPV) formed for this purpose}, if applicable]. As per the terms of the RfS, the _____ [insert name & address of bank] hereby agrees unequivocally,

irrevocably and unconditionally to pay to Tata Power Delhi Distribution Limited at [Insert Name of the Place from the address of the TPDDL] without demure forthwith on demand in writing from TPDDL or any Officer authorized by it in this behalf, any amount up to and not exceeding Rupees----- [Total Value] only, on behalf of M/s _____[Insert name of the selected Hybrid Power Developer / Project Company]

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

Our liability under this Guarantee is restricted to Rs. _____only. Our Guarantee shall remain in force until..... TPDDL shall be entitled to invoke this Guarantee till

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

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

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

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

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

This BANK GUARANTEE shall be a primary obligation of the Guarantor Bank and according TPDDL shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against the selected Hybrid Power Developer / Project Company, to make any claim against or any demand on the selected Hybrid Power Developer

/ Project Company or to give any notice to the selected Hybrid Power Developer / Project Company or to enforce any security held by TPDDL or to exercise, levy or enforce any distress, diligence or other process against the selected Hybrid Power Developer / Project Company.

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

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

Signature _____
Name____Power of Attorney No._____

For

_____ [Insert Name of the Bank] _____

E-mail ID of the bank:

Banker's Stamp and Full Address. Dated this____day of _____, 20____

Witness:

1. Signature

Name and Address

2. Signature

Name and Address

Notes:

1. The Stamp Paper should be in the name of the Executing Bank and of appropriate value.
2. The Performance Bank Guarantee shall be executed by any of the Bank from the List of Banks enclosed.

SCHEDULE 2: COMMISSIONING PROCEDURE
As mentioned in the PPA.