

BEFORE THE MAHARASHTRA STATE REGULATORY
COMMISSION

CASE NO. OF 2019

Filing No.: _____

IN THE MATTER OF

PETITION FOR SEEKING APPROVAL FOR PROCUREMENT OF 500 MW FLEXIBLE AND SCHEDULABLE POWER FROM RENEWABLE ENERGY SOURCES WITH ENERGY STORAGE FACILITY ON LONG TERM BASIS FOR 25 YEARS FROM RENEWABLE SOURCES AND APPROVAL OF TENDER DOCUMENTS.

IN THE MATTER OF

Regulation 19 of MERC (Renewable Purchase Obligations, its compliance and implementation of REC framework) Regulations, 2016;

AND

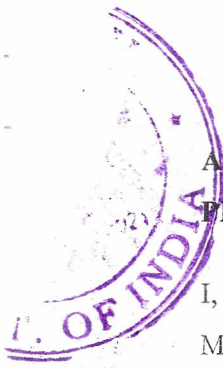
In the matter of Regulation 94 of Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations, 2004 framed under Section 181 of the Electricity Act, 2003;

AND

In the matter of Section 63 of the Electricity Act, 2003;

MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LTD

.....PETITIONER;



AFFIDAVIT ON BEHALF OF PETITIONER (MSEDCL) VERIFYING THE PETITION

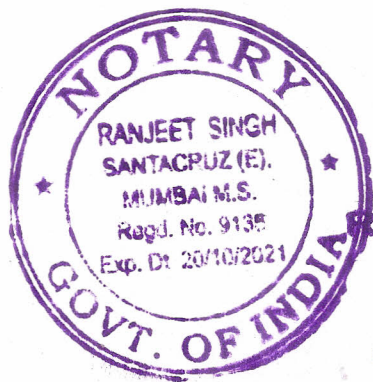
I, Mrs. Kavita Gharat , aged 41 years, having my office at MSEDCL, Prakashgad, Bandra (E), Mumbai- 400 051, do hereby solemnly affirm and state as under;

1. I am Chief Engineer (Renewable Energy) of the Maharashtra State Electricity Distribution Co. Ltd, (herein after referred to as "MSEDCL" for the sake of brevity), in the above matter and am duly authorized to make this affidavit.
2. The statements made in paragraphs of the petition are true to my knowledge and belief and statements made in paragraphs one to Four are based on information and I believe them to be true.
3. I say that there are no proceedings pending in any court of law/ tribunal or arbitrator or any other authority, wherein the Petitioner is a party and where issues arising and/or reliefs sought are identical or similar to the issues arising in the matter pending before the Commission.

Solemnly affirm at Mumbai on this 22.07.2019 that the contents of the above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.

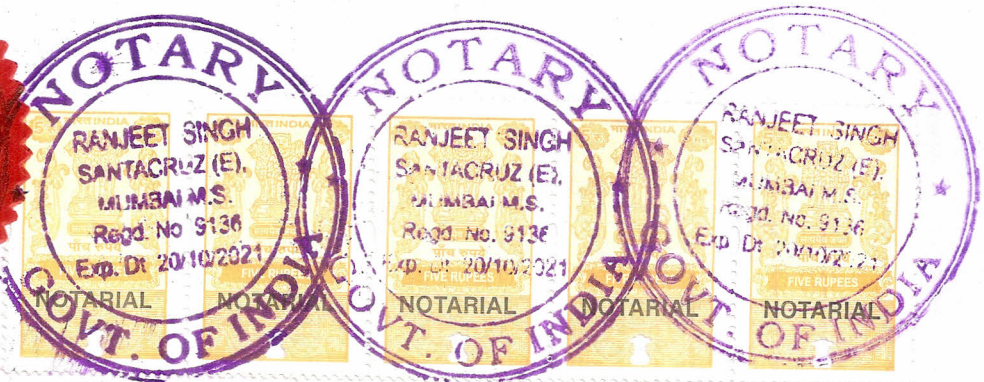
K. Gharat
Deponent

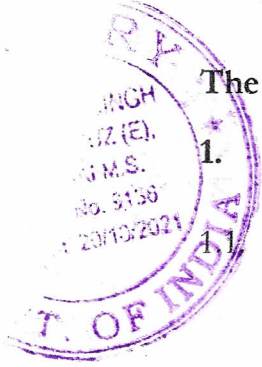
Identified before me
Mumbai
Date -22.07.2019



BEFORE ME
Ranjit Singh
RANJEET SINGH
M.Sc.LL.B.
NOTARY
MAHARASHTRA
GOVT OF INDIA

22 JUL 2019





The Petitioner respectfully submits as under:

1. Background:

Maharashtra State Electricity Distribution Co. Ltd. (hereinafter to be referred to as “MSEDCL” or “the Petitioner”) has been incorporated under Indian Companies Act, 1956 pursuant to decision of Government of Maharashtra to reorganize erstwhile Maharashtra State Electricity Board (herein after referred to as “MSEB”).

1.2. MSEDCL is a Company constituted under the provisions of Government of Maharashtra, General Resolution No. PLA-1003/C.R.8588/Energy-5 dated 25th January 2005 and is duly registered with the Registrar of Companies, Mumbai on 31st May 2005.

1.3. MSEDCL is functioning in accordance with the provisions envisaged in the Electricity Act, 2003 and is engaged, within the framework of the Electricity Act, 2003, in the business of Distribution of Electricity to its consumers situated over the entire State of Maharashtra, except some parts of city of Mumbai.

2. Power Planning considering increasing quantum of RE generation and varying Agriculture Load:

2.1. The Hon'ble Commission has notified the Maharashtra Electricity Regulatory Commission (Renewable Purchase Obligation, its compliance and implementation of REC framework) Regulations, 2016 (hereinafter to be referred as RPO Regulations 2016) on 30th March, 2016 for the control period from FY 2016-17 to FY 2019-20.

2.2. As per Regulation 7.1 of the MERC RPO Regulations 2016, the RPO targets have been set as provided in the table below.



Year	Quantum of purchase (in%) from RE sources (in terms of energy equivalent in kWh)		
	Solar	Non-Solar	Total
2018-19	2.75%	11.00%	13.75%
2019-20	3.50%	11.50%	15.00%

- 2.3. Furthermore, in the existing control period, RPO trajectory has reached upto 15 % of gross energy consumption and in the coming year may be increased at higher percentage considering the trajectories notified by MoP through notification dated 22.07.2016 and further related Order dated 14.06.2018 as below:


Year	Quantum of purchase (in%) from RE sources (in terms of energy equivalent in kWh)		
	Solar	Non-Solar	Total
2019-20	7.25%	10.25%	17.50%
2020-21	8.75%	10.25%	19.00%
2021-22	10.50%	10.50%	21.00%

- 2.4. Also under Mukhyamantri Saur Krishi Vahini Yojana of GoM, the decentralized Solar Generation projects are being implemented to feed all Agriculture pump load in day time.
- 2.5. MSEDCL has already contracted 9852 MW power from Renewable energy sources as on 31.03.2019 and planned to contract around 8000 MW Power from Renewable Energy sources particularly from Solar to meet RPO Targets. By FY 2021-2022, around 16500 MW Renewable power is expected to be fed in the grid.
- 2.6. It is respectfully submitted to the Hon'ble Commission that MSEDCL is facing difficulties in purchasing RECs due to non-availability of sufficient



quantities of RECs and increased rates of in the market. In such a scenario with increasing targets of RPOs on Year on Year basis, it is necessary that MSEDCL should contract sufficient Renewable power through the long term contracts.

- 2.7. Presently, MSEDCL is managing its demand profile by Agricultural demand management schemes by providing different time schedule (8 to 10 hrs per day) to Agriculture feeders on monthly rotational basis by observing seasonal power demand pattern of MSEDCL.
- 2.8. The present peak demand mostly falls during day time and is being catered from its long term PPAs with base load thermal generators and by peaking Koyna Hydro generation.
- 2.9. In situation when there is lower availability from contracted generation due to fuel, water, etc. issues and for cost optimization purpose, power is being purchased from market to meet demand.
- 2.10. Also, this contracted renewable generation for meeting RPO is available during certain period of the day and is not available Round the Clock. In such scenario, for integration of such huge RE Power in the grid, shifting of Ag Load during day time on solar power and to supply power with changed demand pattern; flexible and schedulable generation will be is required. Therefore to fulfill the RPO target and meet changed demand pattern, MSEDCL proposes to procure flexible & schedulable power from Renewable Energy source with storage facility on long term basis for 25 years.



2.11. The flexible and schedulable generators may inject power either through RE generation or pumped storage or batteries and construction of these projects may take around 3-4 years and will be available after FY 2021-22, if process is initiated now.

2.12. Considering the various aspects of such flexible Generation, MSEDCL is intended to procure 500 MW Flexible Generation from renewable Energy sources along with the energy storage system through the competitive bidding process which will also support MSEDCL to fulfill RPO targets.

2.13. Accordingly, MSEDCL has prepared tender documents i.e. RfS and Draft PPA for procurement of power from flexible, schedulable power generators on long term basis from renewable energy sources based on the guideline dated 03.08.2017 issued by Ministry of Power for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects. RfS and Draft PPA are attached as Annexure- A and Annexure- B respectively.

2.14. Key features of the tender documents are as below:

- a. Maximum Capacity: 500 MW for 8 hrs schedulable in two slots with +/- 10% capacity. The minimum bid capacity to be quoted shall be 100 MW
- b. Maximum MUs per annum- 1460 MUs.
- c. Maximum period for commissioning: 36 months.
- d. Maximum period for financial closure: 15 months
- e. Pumping/charging power from Renewable Energy Sources only.
- f. Renewable Generation will be considered for RPO fulfillment of MSEDCL.
- g. Bid parameter/Tariff in Rs/kWh.

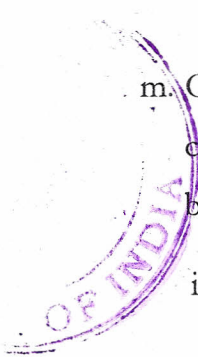


- h. The Minimum Project size of a single Renewable Project with storage facility shall be 100 MW to be interconnected at a single Delivery Point.
- i. The Net-Worth of the Bidder for the last financial year shall not be less than INR 2 Crores/MW of the bid quantum for being eligible to participate in the bidding process.
- j. Liquidity: A minimum annual turnover of Rs. 25 crores during the previous financial year.
- k. Technical Eligibility Criteria:
 - I. The owner of Renewable power projects, having ownership of either a wind or a solar power project of minimum capacity of 25 MW at one location continuously for not less than one year as on original date of bid opening.

(OR)
 - II. The Engineering, Procurement & Construction (EPC) contractor of Renewable power projects having commissioned a wind or a solar power project of minimum capacity of 25 MW at one location as on original date of bid opening.

(OR)
 - III. Developers of Renewable power projects, who have installed a Renewable power project of minimum capacity of 25 MW at one location as on original date of bid opening.

(OR)
 - IV. Who have completed the financial closure of at least 50 MW Renewable power projects and such project is under execution as on original date of bid opening.
- l. The bidder should also demonstrate storage credentials for respective storage technologies.



m. On day-ahead basis, before 08:00 AM of Delivery Date-1, MSEDCL shall convey their next-day requirement to the Supplier for each of the 96 time-blocks, subject to the following conditions:

- i. Buyer can requisition full Contracted Capacity in any of its peak demand hours, subject to the maximum of Daily Energy over a day, but shall not requisition higher than the Contracted Capacity at any time.
 - ii. Buyer shall requisition full Contracted Capacity in two slots for minimum continuous period of 2 hours.
 - iii. Daily Energy may be requisitioned by the Buyer during 0:00–24:00 hrs in 2 slots of minimum 2 hours.
- n. The Supplier shall provide its revised generation schedule for each time-block within $\pm 10\%$ of the Required Energy for each time-block. If beyond $\pm 10\%$, the Supplier shall pay the penalty to MSEDCL, which shall be equal to the energy shortfall beyond $\pm 10\%$ multiplied by the difference between IEX landed rate and PPA Tariff for that time-block (Short-Scheduled Energy Penalty).
- o. On monthly basis, the total Generation shall be within $\pm 3\%$ of the total Required Energy for the month. If beyond $\pm 3\%$, the Supplier shall pay the penalty to MSEDCL, equal to the energy shortfall beyond $\pm 3\%$, multiplied by the difference between IEX landed rate (average market clearing price for that month) for that month and PPA Tariff.
- p. The above penalties shall not be applicable to the extent the Supplier arranges the power from alternate sources.
- q. Required Energy requisitioned by MSEDCL over a day shall be within $\pm 3\%$ of the Daily Energy. In case of shortfall, MSEDCL shall pay penalty to

the Supplier equal to the shortfall, multiplied by the difference between the PPA Tariff and IEX net realization for the day.

- 3.** MSEDCL hereby requests Hon'ble Commission for approval of the tender documents for procurement of 500 MW power from flexible, schedulable power generators on long term basis from renewable energy sources for better utilization of non-RTC Renewable Generation and fulfillment of Renewable Power Obligations.

4. Prayers:

In view of the aforesaid facts and circumstances it is most respectfully prayed that this Hon'ble Commission may be pleased to:-

- a) To approve the procurement of 500 MW power from flexible, schedulable power generators on long term basis from renewable energy sources along with energy storage system through competitive bidding process;
- b) To approve the Tender documents i.e. RfS and Draft PPA for such Power procurement.
- c) To allow MSEDCL to consider such procurement for fulfillment Renewable Purchase Obligations.
- d) To consider the submission made by the Petitioner and consider the same positively while deciding the Petition as well as for further actions;

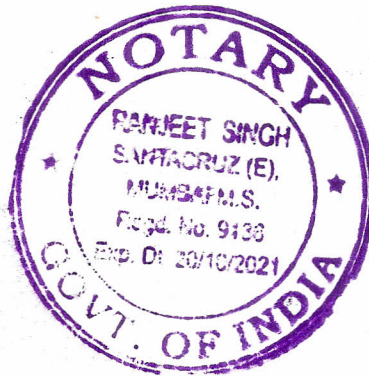
- e) To pass any other order/relief as the Hon'ble Commission may deem fit and appropriate under the circumstances of the case and in the interest of justice;
- f) To condone any error/omission and to give opportunity to rectify the same;
- g) To permit the Petitioner to make further submissions, addition and alteration to this Petition as may be necessary from time to time.

Ksharad

Chief Engineer (Renewable Energy)

Place: Mumbai

Date: 22.07.2019



Maharashtra State Electricity Distribution Company Ltd.



**REQUEST FOR SELECTION (RfS)
FOR PURCHASE OF 500 MW FLEXIBLE SCHEDULABLE POWER THROUGH
COMPETITIVE BIDDING PROCESS FOLLOWED BY E-REVERSE AUCTION FROM GRID
CONNECTED RENEWABLE ENERGY SOURCES WITH ENERGY STORAGE
FACILITY ON LONG TERM BASIS**

**RfS No. MSEDCL / Flexible Schedulable Renewable Power with Storage
Facility/XX/ dated XXXX**

ISSUED BY

Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL),

Renewable Energy Section, 5th Floor, 'Prakashgad', Bandra (East), Mumbai - 400 051

Website: www.mahadiscom.in

Email – ncetendermsedcl@gmail.com

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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 fifteen (15) 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. Maharashtra State Electricity Distribution Company Limited (MSEDCL) 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 MSEDCL 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: Mumbai

Date: XXX

BID INFORMATION SHEET

Document Description	RfS for purchase of 500 MW Flexible Schedulable Power through competitive bidding process followed by e-reverse auction from grid connected renewable energy sources with energy storage facility on long term basis
RfS No.& Date	MSEDCL / Flexible Schedulable Renewable Power with Energy Storage Facility/XX/ dated XXXX
Downloading of tender documents	From XX.XX.XXXX
Pre-bid Conference / Clarification Meeting	Date: XX.XX.XXXX Time: 11:00 AM Venue: 6th Floor, 'Prakashgad', Bandra (East), Mumbai - 400 051
Last Date & Time for a) Online Submission of Response to RfS and b) Submission of all documents as per Section 3.19 A physically at MSEDCL office, Mumbai	Date : XX.XX.XXXX Time: 11:00 AM
Technical Bid Opening	Date : XX.XX.XXXX Time : 2:00 PM
Financial Bid Opening	Will be informed to eligible bidders
e-Reverse Auction	Will be informed to eligible bidders
Cost of RfS Document (non-refundable)	Rs. 25,000/- plus 18% GST applicable (to be submitted in the form of DD/Pay Order, along with the response to RfS in favour of "Maharashtra State Electricity Distribution Company Ltd", payable at Mumbai)
Processing Fee	Rs. 3 Lakhs plus 18% GST applicable, to be submitted in the form of DD/Pay Order along with

RFS FOR PURCHASE OF 500 MW FLEXIBLE SCHEDULABLE POWER THROUGH COMPETITIVE BIDDING PROCESS FOLLOWED BY E-REVERSE AUCTION FROM GRID CONNECTED RENEWABLE ENERGY SOURCES WITH ENERGY STORAGE FACILITY ON LONG TERM BASIS

(non-refundable)	RfS in favour of “Maharashtra State Electricity Distribution Company Ltd”, payable at Mumbai).
Earnest Money Deposit (EMD)	Earnest Money of 10 Lakhs/MW to be submitted in the form of Bank Guarantee at the time of submission of response to the RfS.
Performance Bank Guarantee (PBG)	Performance Bank Guarantee @ Rs. 23 Lakh/MW to be submitted within 30 days from the date of issue of Letter of Award.
Name, Designation, Address and other details (For Submission of Response to RfS)	Chief Engineer (Renewable Energy) Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL), Power Purchase Section, 5th Floor, 'Prakashgad', Bandra (East), Mumbai - 400 051 Email – ncetendermsedcl@gmail.com Tel No. 022-26580645. Website – www.mahadiscom.in
Details of persons to be contacted in case of any assistance required	1) Mr. Amit Bute, Executive Engineer (RE), Ph: 022-26474211 (Ext. 2322) 2) Mr. Ramesh Dethe Additional Executive Engineer (RE) Ph: 022-26474211 (Ext. 3613)
Important Note: Prospective Bidders are requested to remain updated for any notices/amendments/clarifications etc. to the RfS document through the websites www.mahadiscom.in and https://etender.mahadiscom.in . No separate notifications will be issued for such notices/amendments/clarifications etc. in the print media or individually.	

For conducting the e-bidding, MSEDCL will use its own portal <https://etender.mahadiscom.in> (E-tender Portal). Bidders are required to register themselves online with MSEDCL e-tender portal, as 'Supply organization/ Bidder', by paying 'Buyer-specific Annual Portal Registration Fee' to MSEDCL, through the payment gateway facility of the E-tender Portal of INR 3,000 (Indian Rupees Three Thousand) (plus applicable taxes as indicated in the E-tender Portal), and subsequently download the RfS and other Bid Documents from the E-tender Portal. A Bidder, who is already validly registered on the E-tender Portal need not register again on the E-tender Portal.

SECTION 1 : INTRODUCTION, BACKGROUND AND SCHEME DETAILS

1 Introduction, Background and Scheme Details

1.1 Introduction

1.1.1 The erstwhile Maharashtra State Electricity Board was looking after Generation, Transmission & Distribution of Electricity in the State of Maharashtra barring Mumbai. But after the enactment of Electricity Act 2003, MSEB was restructured into four (4) Companies viz. MSEB Holding Co. Ltd., Maharashtra State Electricity Distribution Co. Ltd. (Mahavitaran / MSEDCL), Maharashtra State Power Generation Co. Ltd. (Mahagenco) and Maharashtra State Electricity Transmission Co. Ltd. (Mahatransco) on 6th June 2005.

1.2 Background

1.2.1 In order to fulfil the renewable power purchase obligation (RPO) and to cater to the power demand of the State experiencing intra-day variations, MSEDCL intends to procure flexible power which can be supplied to meet peak demand/varying demand requirement during the day. With the objective to promote Renewable Energy with energy storage facility for optimal and efficient utilization of transmission infrastructure and land, reducing the variability in renewable power generation and achieving better grid stability, MSEDCL envisages to procure 500 MW Flexible Schedulable Power through Competitive Bidding Process followed by E-Reverse Auction from Grid Connected Renewable Energy Sources with Energy Storage Facility on Long Term Basis [conducted electronically on <https://etender.mahadiscom.in> followed by e-reverse auction].

1.2.2 MSEDCL hereby invites proposals for procurement of 500 MW Flexible Schedulable Power through Competitive Bidding Process followed by E-Reverse Auction from Grid Connected Renewable Energy Sources with Energy Storage Facility on Long Term Basis. The power shall be schedulable for 8 hours in two (2) slots with one (1) slot of at least 2 hours with $\pm 10\%$ capacity. The Total Maximum Quantum of energy to be procured per annum is 1460 MUs from 500 MW of renewable energy capacity. MSEDCL shall enter Power Purchase Agreements (PPAs) with the successful bidders selected based on this RfS.

1.3 Overview of the bidding process

1.3.1 Developers selected by MSEDCL based on this RfS, shall set up renewable energy project(s) along with Energy Storage asset from any of the renewable energy sources as defined by the Ministry of New & Renewable Energy (MNRE), GOI. The projects shall be

developed on Built Own Operate (BOO) basis in accordance with the provisions of this RfS document and Draft Power Purchase Agreement (PPA). The Draft PPA has been enclosed along with the bidding documents.

1.3.2 The tendering process will be held in a single stage –

The bidders shall quote their offered Capacity of power from renewable energy sources along with adequate energy storage capacity to cater to the stated flexible power requirement on daily basis. The minimum bid capacity to be quoted shall be 100 MW and Maximum capacity quoted by any of the bidder shall be 500 MW. The Bidder shall also submit its Financial Bid along with its technical bid. The financial bids of all the eligible bidders shall be opened and their bids shall be evaluated as per the procedure elaborated in Section 4 of this RfS. This bidding process shall be followed by e-reverse auction in order to determine the Successful Bidder(s).

1.4 Details of Power Procurement

1.4.1 The bidder selected by MSEDCL based on this RfS, shall set up renewable energy project(s) along with Energy Storage asset from any of the renewable energy sources as defined by the Ministry of New & Renewable Energy (MNRE), GOI. The project shall be set up in accordance with the provisions of this RfS document and Draft Power Purchase Agreement (PPA). PPA format has been enclosed and can be downloaded from www.mahadiscom.in and <https://etender.mahadiscom.in>.

1.4.2 MSEDCL shall enter into PPA with successful bidder(s) for a period of 25 years from the scheduled commercial operation date of the project. The tariff will be discovered through the e-bidding and e-Reverse Auction conducted vide this RfS and shall be fixed for entire PPA period. The bidder will be free to avail fiscal incentives like Accelerated Depreciation, Concessional Customs and Excise Duties, Tax Holidays, benefits from trading of carbon credits, etc. as available for such projects. The same will not have any bearing on comparison of bid for selection. As equal opportunity is being provided to all bidders at the time of tendering itself, it is up to the bidder to avail various tax and other benefits. No claim shall arise on MSEDCL for any liability if bidder is not able to avail fiscal incentives and this will not have any bearing on the applicable Tariff.

1.4.3 In case of import of energy during a month by the selected project located within Maharashtra state, the successful bidder shall be required to make payment to MSEDCL at prevailing HT Industrial tariff rate as determined by MERC from time to time.

1.5 Eligible Projects

- 1.5.1 The selection of renewable energy and Energy Storage asset would be technology agnostic. Only commercially established and operational technologies can be used to minimize the technology risk and to achieve timely commissioning of the Projects.
- 1.5.2 In order to ensure only quality systems are installed, and in order to bring-in advantage of latest development/Models, the type-certified wind turbine models listed in Revised List of Models and Manufactures (RLMM) issued by MNRE as updated until the Scheduled Commissioning Date of the projects will be allowed for deployment under the RfS.
- 1.5.3 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 commissioning of the Project, will be followed and must strictly comply with the technical parameters detailed in the **Annexure: 1**.
- 1.5.4 The Bidders shall ensure that the cells and modules used in the solar PV power project shall be from the models and manufacturers included in the ALMM list as available on MNRE website.

SECTION 2 : DEFINITIONS

2 Definitions

FOLLOWING TERMS USED IN THE DOCUMENT WILL CARRY THE MEANING AND INTERPRETATIONS AS DESCRIBED BELOW:

2.1 Definitions

"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 by one Company with at least 26% (twenty-six percent) of the voting rights/ paid up share capital of the other Company;

"Annual Energy" shall mean shall mean 1460 MUs of power supply per annum from the Total Contracted Capacity of 500 MW.

"Bidder" shall mean Bidding Company or a Limited Liability Company (LLC) or a Bidding Consortium submitting the Bid. Any reference to the Bidder includes Bidding Company/LLC/Bidding Consortium/Consortium Member of a Bidding Consortium including its successors, executors and permitted assignees and Lead Member of the Bidding Consortium jointly and severally, as the context may require.;

"Bidding Consortium" or "Consortium" refers to a group of Companies that has collectively Submitted the response in accordance with the provisions of these guidelines.

"Buying Entity" or "Buyer" means Maharashtra State Electricity Distribution Company Limited (MSEDCL) who shall sign the Power Purchase Agreement with the Supplier;

"Capacity Utilisation Factor (CUF)" shall have the same meaning as provided in CERC (Terms & Conditions for tariff determination from renewable energy sources) Regulations, 2009 as amended from time to time.

"Chartered Accountant" shall mean a person practicing in India or a firm where of all the partners practicing in India as a Chartered Accountant(s) within the meaning of the Chartered Accountants Act, 1949; For bidders or its Parent, Affiliate or Ultimate Parent or

any Group Company 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;

"CERC" shall mean Central Electricity Regulatory Authority.

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

"Commissioning" with respect to the Project as certified by RLDC/SLDC/MSEDCL/SNA shall mean when all equipments as per rated capacity has been installed and energy has flown into the grid.

"Commercial Operation Date" shall mean the date on which the Project/ Unit is commissioned (certified by RLDC/SLDC/DISCOM/SNA) and available for commercial operation for which the Successful Bidders shall have to provide a written notice to MSEDCL at least 30 days in advance.

"Contracted Capacity" shall mean the capacity (in MW AC) contracted with MSEDCL for supply of flexible power by the successful bidder at the Delivery Point from the respective Renewable Energy Project with Energy Storage Facility.

"Contract Year" shall mean, with respect to the initial Contract Year, the period beginning on the Commercial Operation Date and ending at 12.00 midnight on 31st March of that Fiscal Year. Each successive Contract Year shall coincide with the succeeding Fiscal Year, i.e., a period of twelve months commencing on April 1 and ending on following March 31, except that the final Contract Year shall end on the date of expiry of the Term or on Termination of this Agreement whichever is earlier.

"Day" shall mean calendar day.

"Discom" means Maharashtra State Electricity Distribution Company Limited.

"Delivered Energy" means the kilowatt hours of Electricity accounted for at the Delivery Point and as certified by project state DISCOM/ TRANSCO/ RLDC/ SLDC / MSEDCL/ MSETCL as the case may be.

"Delivery Point/ Interconnection Point" shall mean Maharashtra State periphery where the power from the selected Project will be accounted for scheduling and billing. Accordingly

For projects located outside Maharashtra	Delivery Point shall be Maharashtra State periphery i.e., the point at which the CTU network is connected to the Intra-State Transmission network of Maharashtra. Accordingly, all
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(whether connected to CTU or to STU of their home States)	charges & losses, including the STU transmission charges & losses of the Bidder's / Renewable Energy Project Developer's home State, POC, scheduling / SLDC / RLDC charges, etc. shall be borne by the Bidder / Renewable Energy Project Developer.
For projects located in Maharashtra and connected to Maharashtra -STU	Delivery point shall be where Interconnection point of Renewable Energy Project Developer is connected to the Intra-State Transmission network of Maharashtra.
For projects located inside Maharashtra, but connected to CTU	Delivery Point will be Maharashtra State periphery. Accordingly, all charges & losses, including the POC, scheduling / RLDC charges, etc. shall be borne by the Bidder / Renewable Energy Project Developer.

“Developer” means the Bidding Company or a Bidding Consortium participating in the bid and having been selected and allocated a Renewable Energy Project along with Energy Storage facility by MSEDCL through a competitive bidding process.

“Electricity” shall mean the electrical energy in kilowatt-hours.

“Electricity Laws” shall mean the Electricity Act, 2003 and the relevant rules, notifications, and amendments issued thereunder and all other Laws in effect from time to time and applicable to the development, financing, construction, ownership, operation or maintenance or regulation of electric generating companies and Utilities in India, the rules, regulations and amendments issued by CERC/ MERC from time to time.

“Effective Date” shall mean the date of execution of Power Purchase Agreement (PPA) by both the parties;

“Financial Closure” or “Project Financing Arrangements” means arrangement of necessary funds by Renewable Energy Project Developer 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 a legally binding agreement for commitment of such finances.

“Financing Documents” shall mean the agreements and documents (including asset leasing arrangements) entered/to be entered into between the bidder and the Financing Parties relating to the financing of the Project.

“Financing Parties” means Parties financing the Project, pursuant to Financing Documents.

“Flexible, Schedulable Power” shall mean Energy supplied by the Supplier at the Delivery Point in accordance with Provisions of Clause 3.24;

“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) 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, and any mutual fund 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.

“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 1 year from the Commercial Operation Date (COD) of the Project.

“Letter of Award” or “LOA” shall mean the letter issued by Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL) to Renewable Energy Project Developer for award of the project contract.

“Limited Liability Partnership” or “LLP” shall mean a Company governed by Limited Liability Partnership Act 2008 or as amended.

“LLC” shall mean Limited Liability Company.

“MERC” shall mean Maharashtra Electricity Regulatory Commission.

“MEDA” shall mean Maharashtra Electricity Development Agency. It has been identified as the Sate Nodal Agency (SNA) for implementation of this policy.

“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.

“Metering Point” shall mean the point at which energy shall be measured and accounted for supply to MSEDCL. Metering shall be at the interconnection point of the selected project.

“MNRE” means the Ministry of New and Renewable Energy.

“Month” shall mean calendar month.

“Net-Worth” means the Net-Worth as defined in Section 2 of the Companies Act 2013.

“Paid-up share capital” shall include:

- Paid-up equity share capital
- Fully, compulsorily and mandatorily convertible Preference shares
- Fully, compulsorily and mandatorily convertible Debentures.

“Parent” means a company, which holds not less than 51% equity either directly or indirectly in the Project Company or a Member in a Consortium developing the Project;

“Part Commissioning” shall mean a part of the Wind/Solar Capacity (AC MW) along with requisite Energy Storage commissioned as per clause 3.13.1.

“Performance Bank Guarantee” shall mean the irrevocable unconditional bank guarantee to be submitted by the successful bidder as per Clause 3.8.

“Planned Maintenance & Allied Activities Period” shall mean as defined in Clause in 3.24;

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

“Project” shall mean a Renewable Energy along with Energy Storage (facility) Grid Interactive Power Generating Station to be established by the Developer in or outside Maharashtra and shall include land, buildings, plant, machinery, ancillary equipment, material, switch-gear, transformers, protection equipment and the like necessary to deliver the Electricity generated to MSEDCL at the Delivery Point.

“Project Site” means any and all parcels of real property, rights-of-way, easements and access roads, upon which the Project and its related infrastructure will be located.

“Project Capacity” means the AC capacity in Mega Watt of the project at the generating terminal(s) and to be contracted with MSEDCL for supply from the Renewable Energy Project along with Energy Storage asset.

“Required Energy” shall mean as defined in Clause in 3.31;

“RfS Document” shall mean the bidding document issued by MSEDCL including all attachments, clarifications and amendments thereof.

“SCADA” means the Supervisory Control and Data Acquisition System (SCADA) installed for recording and transferring the online data.

“Scheduled Energy” shall mean as defined in Clause in 3.31;

“SCOD” or “Scheduled Commercial Operation Date” shall mean the date as declared by the Successful Bidder in the PPA which shall not exceed 36 (Thirty Six) months from the date of execution of the PPA.

“Selected Bidder or Successful Bidder” shall mean the Bidder selected pursuant to this RfS to set up the Renewable Energy Project along with Energy Storage asset and supply electrical output as per the terms of PPA.

“Short Generation Penalty ” shall mean as defined in Clause in 3.24;

“Short-Scheduled Energy Penalty” shall mean as defined in Clause in 3.24;

“SLDC” means the State Load Dispatch Center.

“Storage” or “Energy Storage” shall mean systems/devices/projects/part of projects that can

capture energy produced at one time for use at a later time. This would include Energy Storage systems such as pump storage, battery storage, fly wheels, compressed air, super-capacitors etc.

“STU or “State Transmission Utility” or “Mahatransco” shall mean the Maharashtra State Electricity Transmission Company Limited (MSETCL).

“TOE” shall mean Tender Opening Event.

“Ultimate Parent” shall mean a Company, which owns not less than fifty-one percent (51%) equity either directly or indirectly in the Parent and Affiliates.

“Week” shall mean calendar week

SECTION 3 : BID INFORMATION AND INSTRUCTION TO BIDDERS

3 Bid Information and Instructions to Bidders

3.1 Obtaining RfS Document, Cost of Documents & Processing Fees

- 3.1.1 The RfS document can be downloaded from the portal <https://etender.mahadiscom.in>. A link of the same is also available at www.mahadiscom.in. Interested bidders have to download the official copy of RfS & other documents after logging into <https://etender.mahadiscom.in> by using the Login ID & Password provided by MSEDCL Portal during registration (Refer Annexure – D and E).
- 3.1.2 The bidders shall be eligible to submit / upload their response to bid document only after logging into the <https://etender.mahadiscom.in> and downloading the official copy of RfS.
- 3.1.3 Prospective Bidders interested to participate in the bidding process are required to submit their Project proposals in response to this RfS document along with a non-refundable processing fee as mentioned in the Bid Information Sheet. The bids submitted without cost of the RfS document and/or Processing Fee and/or Bank Guarantee against EMD, shall not be considered for the bidding and such bids shall not be opened by MSEDCL.

3.2 Capacity Offered & Project Scope

3.2.1 Total Capacity Offered

- a. Selection of projects shall be carried out through e-bidding for total Contracted Capacity of 500 MW for supply of flexible schedulable power from Renewable Energy Project along with Energy Storage facility, schedulable for 8 hours in two (2) slots with +-10% capacity. The Total Maximum Quantum of energy to be procured per annum is 1460 MUs.
- b. Under this RfS, a Renewable Energy Project shall mean a Project generating electricity from any of the renewable energy sources as defined and approved by the Ministry of New & Renewable Energy along with adequate energy storage asset.
- c. The minimum bid capacity to be quoted shall be 100 MW and Maximum capacity quoted by any of the bidder shall be 500 MW.
- d. The Minimum Project size of a single Renewable Project with storage facility shall be 50 MW to be interconnected at a single Delivery Point.

3.2.2 Capacity of each Project:

- 3.2.2.1 The Minimum Project size of a single Renewable Energy Project shall be 100 MW to be interconnected at a single Delivery Point.
- 3.2.2.2 The Renewable Energy Project Developer shall demonstrate the rated capacities of each component separately prior to, or at the Delivery Point, in line with the Commissioning procedure as notified by SLDC / RLDC / MSEDCL.

3.2.3 Project Scope and Technology Selection:

- 3.2.3.1 Under this tender, the Renewable Energy Project Developer shall supply power up to the Delivery 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 Open-Access for supply of power) including those required from Central/ State Government and local bodies shall be in the scope of the Renewable Energy Project Developer.
- 3.2.3.2 The Projects to be selected under this scheme provide for deployment of any renewable energy generation technology as defined and approved by MNRE along with Energy Storage asset (based on Mechanical, Chemical, Compressed Air, Hydrogen, Pumped Storage, etc.).
- 3.2.3.3 The Successful Bidder shall be responsible for preparing and sharing its generation forecast and schedule from its Projects on day ahead basis with the SLDC/RLDC and MSEDCL.

3.3 Eligibility for Project Capacity Allocation

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

- 3.3.1 A Bidder including its Parent, Affiliate, Ultimate Parent, or Group Company, can submit a single bid application for a minimum cumulative capacity of 100 MW, and a maximum cumulative capacity of 500 MW.
- 3.3.2 The total Contracted Capacity to be allocated to a Bidder including its Parent, Affiliate, Ultimate Parent, or any Group Company shall be limited to 500 MW.
- 3.3.3 Multiple bids from same company including its Parent/Ultimate Parent /Affiliates/Group Companies shall make all the bids submitted by the group invalid.
- 3.3.4 The evaluation of bids shall be carried out as described in Section 4. The methodology of allocation of projects is also elaborated in Section 4.

3.4 Qualification Requirements

- 3.4.1 Bidder as defined in SECTION 2 is eligible to participate under this RfS.
- 3.4.2 The Bidding Entity should be incorporated in India under the Companies Act 1956 or Companies Act, 2013 as applicable.
- 3.4.3 Any consortium, if selected as successful bidder for the purpose of supply of power to MSEDCL, shall incorporate a Project company/ Special Purpose Vehicle (SPV) with equity participation by the Members in line with consortium agreement (to be submitted along with the response to RfS) before signing of PPA., i.e. the Project Company incorporated shall have the same shareholding pattern at the time of signing of PPA as 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 26% 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 permission of MSEDCL, subject to the condition that, the management control remains within the same group of companies.

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 as a fully owned subsidiary Company (100% subsidiary) of the successful bidder for setting up of the Project which has to be registered under the Indian Companies Act, 2013, before signing of PPA.

- 3.4.4 Foreign Companies are allowed to participate and foreign companies participating in the bidding process shall be registered as companies as per the rules of their country of origin. 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 an Indian Company registered under the Companies Act, 2013 as its fully owned subsidiary Company (i.e. 100% subsidiary) before signing of PPA. In case the foreign company is participating as a member of consortium, the Clause 3.4.3 shall be applicable.
- 3.4.5 Limited Liability Companies (LLC) shall be eligible. Further, if such Limited Liability Companies are selected as successful Bidders, they will have to register as a Company under the Indian Companies Act, 1956 or Companies Act, 2013, as applicable, before signing of PPA, keeping the original shareholding of LLC unchanged. In such cases, it will also be mandatory on the part of such Limited Liability Companies to either demonstrate or infuse the capital in form of his own equity in line with the requirement stipulated in Clause 3.5 given below. In case LLC fails to incorporate as an Indian company before signing of PPA or unable to demonstrate/

infusion of capital in form of his own equity in to the Company registered in India or not able to sign PPA with MSEDCL, EMD of such Bidders shall be forfeited.

Note: Limited Liability Companies (LLC) shall be eligible only for those LLCs which are formed by companies.

3.4.6 LLPs will not be considered eligible to bid against this RFS.

3.5 Eligibility Criteria

3.5.1 Net Worth:

- a. The Net-Worth of the Bidder for the last financial year shall not be less than INR 2 Crores/MW of the bid quantum for being eligible to participate in the bidding process. The bidders, only on submission of the said certificate, shall be allowed to participate in the e-Reverse Auction. Submission of wrong information shall lead to forfeiting of the EMD of the bidder by MSEDCL.
- b. Bidders shall have to furnish Certificates from Chartered Accountants, certifying the Net worth as on 31st March, 2018.
- c. 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 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.

For avoidance of doubt, "net worth" as per Section 2 (57) of the Companies Act 2013 means the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, writeback of depreciation and amalgamation.

3.5.2 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:

- i) A minimum annual turnover of Rs. 25 crores during the previous financial year. 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.
- ii) Internal resource generation capability, in the form of Profit Before

Depreciation Interest and Taxes (PBDIT) shall be atleast Rs. 10 crores as on the last date of previous financial year.

- iii) In-principle sanction letter from the lending institutions/banks of the Bidder, committing a Line of Credit for a minimum amount of Rs. 12.5 crores 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.

3.5.3 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 the clauses 3.5.1 & 3.5.2 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 such cases, the Bidder shall be required to submit Board Resolutions from the respective Affiliate(s), undertaking to contribute the required equity funding.

3.5.4 Technical Eligibility Criteria

- (i) Under the provisions of this RfS, it is proposed to procure flexible power from power project based on renewable energy sources as defined and approved by MNRE along with Energy Storage facility. The Bidder shall provide information about the Renewable Energy generation project as well as Energy Storage technology proposed to be installed and meet the power supply requirement criteria at the time of Bid submission.
- (ii) In order to ensure only quality systems are installed in case of new projects, the technical guidelines issued by MNRE or CEA from time to time and the technical guidelines prevalent at the time of commissioning of the Project, will be followed.
- (iii) The Projects shall also comply with the criteria for power supply detailed in Clause 3.11
- (iv) Under this RfS, Bidders meeting the following technical criteria shall be considered qualified:
 - A. The owner of wind or solar power projects, having ownership of either a wind or a solar power project of minimum capacity of 25 MW at one location continuously for not less than one year as on original date of bid opening.

(OR)
 - B. The Engineering, Procurement & Construction (EPC) contractor of wind or solar power projects having commissioned a wind or a solar power project of minimum capacity of 25 MW at one location as on original date of bid opening.

(OR)
 - C. Developers of wind or solar power projects
 - i. Who have installed a wind or solar power project of minimum capacity of 25 MW at one location as on original date of bid opening.

(OR)
 - ii. Who have completed the financial closure of at least 50 MW wind or solar power projects and such project is under execution as on original date of bid opening.

- D. Developer or EPC Contractor of a Small Hydro Power Project i.e. of capacity 25 MW or below.

The Bidder shall submit the commissioning certificate and/or proof of achieving financial closure along with certifications of financing agencies for the projects, if applicable, in this regard.

- E. The bidder should also demonstrate Energy Storage credentials for respective Energy Storage technologies as below:

In case of battery, the bidder should demonstrate the following:

- (a) The Bidder should also have tie-up with Battery manufacturer in the form of MoU or Technical Partnership
- (b) The certificate from the manufacturer of manufacturing capacity of atleast the Energy Storage capacity to be used in the project. Manufacturing certificate/factory certificate/audit report etc to demonstrate manufacturers credentials
- (c) Credentials (location, size, year of commissioning, other operating parameters) of the projects along with the operational data (efficiency, discharge rate, charge rate, etc) of projects with minimum capacity proposed to be used in the bid project. Commissioning certificate for proof of battery storage installation credentials will be part of credentials.

In case Energy Storage is based on compressed air or pumped storage, then the bidder should demonstrate the following:

- (a) Allocation of site by way of Government Order/MoU/Implementation Agreement along with Location profile of the proposed Energy Storage project including the lat long parameters, distance from nearest substation, land requirement (whether government / private)
- (b) Project profile, storage time duration, storage capacity, number of units
- (c) Proposed power evacuation scheme
- (d) Pre-Feasibility report

Other Energy Storage Technologies: Documentary evidence to the satisfaction of MSEDCL demonstrating preparedness of Energy Storage component as part of the Renewable Energy project. (The bidder should demonstrate credentials of deploying technology, tie-up with technology provider and credentials of technology providers, allocation of sites as applicable)

Bidder should meet requirements either as per ((A) OR (B) OR (C – i or ii)) and (D)

3.6 Connectivity with the Grid

- 3.6.1 The project could be connected to MSETCL network or anywhere in India on CTU network.
- 3.6.2 For interconnection with the grid and metering, the Renewable Energy Project Developer shall abide by applicable Grid Code, Grid Connectivity Standards, Regulations on Communication System for transmission of electric and other regulations (as amended from time to time) issued by Appropriate Commission and CEA.
- 3.6.3 The responsibility of getting the ISTS connectivity and Open-access shall be entirely of the Renewable Energy Project Developer and shall be at the cost of the Renewable Energy Project Developer. Such availability of transmission system being dynamic in nature, the Bidder has to ensure actual availability of power injection/evacuation capacity at an ISTS/ InSTS substation. The transmission of power up to, and including at the Interconnection Point shall be the responsibility of the Renewable Energy Project Developer at its own cost. In case a Renewable Energy Project Developer is required to use InSTS to bring power at ISTS point, it may do so as per rule and regulations prescribed by the respective SERC in this regard. The maintenance of Transmission system up and including at the Interconnection Point shall be responsibility of the Renewable Energy Project Developer.
- 3.6.4 The arrangement of connectivity can be made by the Renewable Energy Project Developer through a dedicated transmission line which the Renewable Energy Project Developer may construct himself or get constructed by PGCIL/State Transmission Company or any other agency. The entire cost of transmission including cost of construction of line, PoC charges, Transmission & wheeling charges, SLDC/Scheduling charges, SOC, MOC, maintenance, losses etc. and any other charges from the project up to the Delivery Point will be borne by the Renewable Energy Project Developer.
- 3.6.5 Two or more Projects can be connected to a common pooling substation from which the pooled power can be transferred to the CTU/ STU substation through a common transmission line subject to the following conditions:
- i. Acceptance of such an arrangement by the CTU/ STU.
 - ii. The meters for each project at pooling substation are sealed by CTU/STU/Discom/ SLDC/RLDC.
 - iii. The energy accounts are divided and clearly demarcated for the power generated at the Project and are issued by the STU/SLDC/RLDC concerned.
- In case of Pooling substation, losses in the transmission line between the Pooling substation and the Interconnection Point shall be apportioned among the generators who share such a Pooling arrangement, based on their generation.
- 3.6.6 The responsibility of getting ISTS / InSTS connectivity and long term access / open access shall entirely be with the Renewable Energy Project Developer. In this regard, the

Renewable Energy Project Developer shall be required to follow the Procedure for Grant of Connectivity at ISTS/ InSTS substations issued by CERC/ SERC. Such additional costs, if any, shall be borne by the respective Renewable Energy Project Developer.

- 3.6.7 The Renewable Energy Project Developer shall comply with CERC / SERC regulations on Forecasting, Scheduling and Deviation Settlement, as applicable, and is responsible for all liabilities thereunder.
- 3.6.8 Reactive power & power drawn from grid charges as per CERC/SERC regulations shall be payable by the Renewable Energy Project Developer as per provisions of PPA or applicable regulation.
- 3.6.9 Metering arrangement of each project shall have to be adhered to in line with relevant clauses of the PPA.
- 3.6.10 The MSEDCL will be responsible for all transmission charges and losses and any other charges as applicable under the respective regulations beyond the Delivery Point.
- 3.6.11 The selected bidder shall be required to apply for connectivity at the identified substations within 30 days of Effective Date, in line with the applicable regulations. In case the selected bidder fails to obtain the Stage-II/equivalent connectivity at a Substation identified by the Bidder, the same shall be immediately notified by the selected bidder to MSEDCL. Further, the selected bidder shall be allowed to change its Inter-connection Point including the State where the Project is located, until the fulfilment of condition of Financial Closure. The responsibility of obtaining Open Access Approval as per the revised location of the Project, and any delay in Financial Closure/Commissioning of the Project on account of the same, shall be borne by the Renewable Energy Project Developer.
- 3.6.12 The Renewable Energy Project Developer shall commission the Project within Thirty Six (36) Months from the date of signing of PPA.

3.7 Clearances Required from the State Government and other Local Bodies

- 3.7.1 The Bidders are required to undertake various studies, if needed and obtain necessary clearances and permits (including environmental clearance and grid connectivity) as required for setting up the Renewable Energy along with Energy Storage facility.
- 3.7.2 Any neglect or omission or failure on the part of the bidder in obtaining necessary clearances and reliable information upon the forgoing or any other matter affecting the bid shall not relieve him from any risks or liabilities or the entire responsibility for completion of the work in accordance with the bid.

3.8 Earnest Money Deposit (EMD) and Performance Bank Guarantees (PBG)

3.8.1 The Bidder or its subsidiary Special purpose Vehicle (in case a SPV is formed to execute the project) shall provide the following Bank Guarantees to MSEDCL in a phased manner as follows:

- Earnest Money Deposit (EMD) of ₹10 Lakh/MW of the bid capacity in the form of Bank Guarantee along with RfS.
- Performance Bank Guarantee (PBG) of Rs. 20 Lakh / MW of the allotted capacity at the time of signing of PPA

3.8.2 The Bank Guarantee against EMD shall be returned to the Successful Bidder after PBG submitted by them are verified by MSEDCL and PPA is signed.

3.8.3 The Successful Bidder is required to sign PPA with MSEDCL in line with the timeline given in section 3.10. In case, the selected bidder refuses to execute the PPA within the stipulated time period, the Bank Guarantee equivalent to EMD shall be encashed by MSEDCL as penalty. In case the Project is selected, MSEDCL shall release the EMD within 30 days upon execution of PPA with the Successful Bidder.

3.8.4 The PBG shall be valid upto a period of 6 months from Scheduled Commercial Operation Date (SCOD) of the Project. The PBG will be returned to the Successful Bidder immediately after successful commissioning of their Project, after taking into account any penalties due to delays in commissioning as per provisions stipulated in Section 3.13.

- (i) Earnest Money Deposit (EMD) of ₹10 Lakh/MW of the bid capacity in the form of Bank Guarantee according to Format 6.3 A and valid for 06 months from the last date of bid submission, shall be submitted by the Bidder along with their bid failing which the bid shall be summarily rejected. The Bank Guarantee towards EMD have to be in the name of the Bidding Company / Lead Member of Bidding Consortium.
- (ii) The Bidder shall furnish the Bank Guarantee towards EMD from any of the Banks listed at **Annexure: 3** in favor of MSEDCL.
- (iii) Performance Bank Guarantee (PBG): Bidder selected by MSEDCL based on this RfS shall submit Performance Guarantee for a value of @ Rs 20 Lakh / MW of the contracted quantum at the time of signing of PPA. It may be noted that successful Bidder shall submit the Performance Guarantee according to the Format 6.3 B, issued in favor of MSEDCL, for a value @ Rs 20 Lakh/MW of the contracted quantity with a validity period upto 6 months from Scheduled Commercial Operation Date. 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 MSEDCL to the successful Bidder.

- (iv) The Bidder shall furnish the Performance Bank Guarantee (PBG) from any of the Banks listed at **Annexure: 3** to MSEDCL.
- (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 by MSEDCL.
- (vi) The Successful Bidder is required to sign PPA with MSEDCL within 60 days from the date of issuance of LoA. Subsequent extension in this timeline shall be finalized and agreed by MSEDCL. In case, MSEDCL offers to execute the PPA with the Selected Bidder and if the Selected Bidder does not submit the requisite documents or does not meet eligibility criteria upon submission of documents or does not execute the PPA within the stipulated time period, then the Bank Guarantee submitted towards EMD shall be encashed by MSEDCL and the selected Project shall stand cancelled.
- (vii) The Bank Guarantees have to be executed on non-judicial stamp paper of Rs. 500.
- (viii) All expenditure towards execution of Bank Guarantees such as stamp duty etc. shall be borne by the bidder.
- (ix) In order to facilitate the Bidders to submit the Bank Guarantee as per the prescribed format and in line with the requirements, checklist in **Annexure: 2** has been attached. Bidders are advised to take note of the above checklist while submitting the Bank Guarantee.
- (x) After the bidding process is over, MSEDCL shall release the Bank Guarantees towards EMD of the Successful Bidder (post submission of PBG) and to unsuccessful Bidders within 60 days of the date of issuance of LoA to Successful Bidder.

3.9 Forfeiture of EMD

The BG towards EMD shall be encashed by MSEDCL in following cases:

- (i) If the bidder withdraws the bid after due date and time of bid submission and during the validity of the bid;
- (ii) In case, MSEDCL offers to execute the PPA with the Selected Bidder and if

- the Selected Bidder does not submit the requisite documents 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;
 - (iv) If the bidder fails to furnish required Performance Bank Guarantee in accordance with Section 3.8.

3.10 Power Purchase Agreement

- 3.10.1 A copy of Standard Power Purchase Agreement, to be executed between MSEDCL and the Successful Bidder or its subsidiary Special Purpose Vehicle (SPV), as defined under section 3.4 of this RfS, shall be provided by MSEDCL along with this RfS. The PPA shall be signed within 60 days from the date of issue of Letter of Award (LoA). PPA will be executed between MSEDCL and Selected Bidder which shall be valid for a period of 25 years from the date of SCOD as per the provisions of PPA. The successful bidder is required to furnish PBG as specified under 3.8 at the time of signing of PPA.
- 3.10.2 Before signing of PPA between MSEDCL and the Selected Bidder, MSEDCL will verify the documents furnished by the Bidder 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 original documents. Bidder will also be required to furnish the documentary evidence for meeting the RfS Qualification Requirements as per Section 3.4.
- 3.10.3 Any extension of the PPA period beyond 25 years from the SCOD of the project shall be through mutual agreements between the Successful Bidder and MSEDCL with maximum permissible limit upto 40 years.
- 3.10.4 **Repowering:** The Renewable Energy Power Generator shall be allowed to repower the project once for a maximum period of six (6) months during the entire PPA term of 25 years. The generator shall not be in default for non-supply of power during this period of repowering. However, MSEDCL will be obliged to buy power only up to 2.92 MUs per MW of capacity quoted per annum, of flexible schedulable power post repowering.

3.11 Power Generation by Successful Bidder

3.11.1 Criteria for generation:

The Renewable Energy Project Developer shall need to supply power and the energy accounting and settlement shall be on the basis of clause 3.4 of model PPA.

3.11.2 RPO benefit and REC:

The RPO benefit of the power supplied by the Renewable Energy Project Developer shall be claimed by the MSEDCL, and the Renewable Energy Project Developer shall not be eligible

for claiming REC. For MSEDCL to claim RPO benefit, Renewable Energy Project Developer shall provide monthly break-up of Wind - Solar energy (Solar and Non-Solar separately) supplied to the MSEDCL.

3.12 Financial Closure or Project Financing Arrangements

The Successful Bidder shall report tie-up of Financing Arrangements for the Project(s) within 15 months from the date of signing of PPA. In this regard, the Renewable Energy Project Developer shall submit a certificate from all financing agencies regarding the tie-up of funds indicated for the Project. Additionally, the Power Developer shall furnish documentary evidence towards the following within 15 months from the date of execution of PPA.

- a) Developer shall make 100 % Project financing arrangements and provide necessary certificates to procurer in this regard;
- b) Developer shall produce the documentary evidence of possession / right to use of 100% of the land identified for the Project;
- c) Developer shall submit the transmission connectivity agreement with ISTS/InSTS;
- d) Developer shall submit the details of all planned/proposed renewable energy project component (like solar panels, inverters and wind turbine generators, etc.) Energy Storage along with necessary purchase order/agreements for the project.

If the Renewable Energy Project Developer fails to tie up Financing Arrangement for the project within 15 months as prescribed above or if the Renewable Energy Project Developer fails to report such tie-up then the MSEDCL, shall forfeit the performance Bank Guarantee (PBG) unless the delay is on account of delay caused due to force majeure.

An extension for the attainment of the financial closure can however be considered by MSEDCL, on the sole request of the Renewable Energy Project Developer, on advance payment of extension charges of Rs. 10,000/- per day per MW. In case of any delay in depositing this extension charge, the Renewable Energy Project Developer has to pay an interest on this extension charge for the days lapsed beyond due date of Financial Closure @ SBI MCLR (1Year).

This extension shall not have any impact on the SCOD. Any extension charges paid so, shall be returned to the Renewable Energy Power Developer without any interest on achievement of successful commissioning within the SCOD on pro-rata basis, based on the Project Capacity commissioned on SCOD. However, in case of any delay in commissioning of the project beyond the Scheduled Commissioning Date, the amount as deposited above by the Renewable Energy Power Developer shall not be refunded by MSEDCL.

3.13 Commissioning and penalty for delay in commissioning

The Commissioning of the Projects shall be carried out by the Successful Bidder selected based on this RfS, within a period of 36 (Thirty Six) months from the date of execution of the PPA.

Commissioning certificates shall be issued by the respective central / state authority after successful commissioning of Project.

- 3.13.1 Part Commissioning:** Part commissioning of the Project shall be accepted by MSEDCL subject to the condition that the Minimum Capacity for acceptance of first and subsequent part(s) commissioning shall be the 50% of the capacity specified by the bidder in its bid for the particular/each site, without prejudice to the imposition of penalty, in terms of the PPA on the part which is not commissioned. Further, the installed capacity at a site shall be given the status of part commissioned only if it fulfils the configuration criteria as mentioned in the project scope under However, the SCOD (Schedule Commercial Operation Date) will not get altered due to part-commissioning. Irrespective of dates of part commissioning or full commissioning, the PPA will remain in force for a period of 25 (twenty-five) years from the SCOD.
- 3.13.2 Early Commissioning:** The Successful Bidder shall be permitted for full commissioning as well as part commissioning of the Project even prior to the SCOD subject to the availability of the evacuation arrangements. In cases of early part- commissioning or early full commissioning, and the evacuation arrangements are available, MSEDCL shall purchase the generation at the PPA tariff. Further, early part/ full commissioning of the Project and subsequent energy procurement from the same shall be subject to the approval of MSEDCL.
- 3.13.3 Penalty for Delay in Commissioning:** The Project shall be commissioned by the Scheduled Commercial Operation Date. In case of failure to achieve this milestone, MSEDCL shall forfeit the Performance Bank Guarantee (PBG) in the following manner.
- a) **Delay upto six (6) months from SCOD** – MSEDCL will forfeit total Performance Bank Guarantee on per day basis and proportionate to the balance Capacity not commissioned.
 - b) **In case the commissioning of the project is delayed beyond Six (6) months from SCOD** - the tariff discovered after e-Reverse Auction shall be reduced at the rate of 0.50 paise/kWh per day of delay for the delay in such remaining capacity which is not commissioned for the entire term of the PPA. The maximum time period allowed for commissioning of the full Project Capacity with encashment of Performance Bank Guarantee and reduction in the fixed tariff shall be limited to 45 months from the date of PPA or till the Tariff becomes zero, whichever is earlier.

3.14 Minimum Paid up Share Capital to be Held by Project Promoter

- i) The Company developing the project shall provide complete information in their bid in reference to RfS about the Promoters and their shareholding in the company indicating the controlling shareholding before signing of PPA with MSEDCL.
- ii) 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% (fifty-one per cent) at any time prior to 1 (one) year from the COD, except with the prior approval of MSEDCL. However, in case the Project is being set up by a Public Limited Company, this condition will not be applicable.
- iii) 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 from the COD, except with the prior approval of the MSEDCL.
- iv) However, in case the successful bidder shall be itself executing the PPA, then it shall ensure that its promoters shall not cede control (Control shall mean ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such Company or right to appoint majority Directors) till 1 (one) year from the COD, except with the prior approval of MSEDCL. In this case it shall also be essential that the successful bidder shall provide the information about its promoters and their shareholding to MSEDCL before signing of the PPA with MSEDCL.
- v) Any change in the shareholding after the expiry of 1 (one) year from the COD can be undertaken under intimation to MSEDCL.
- vi) In case, the financial eligibility and qualification is attained through financials of Parent Company, then the shareholding pattern of the Parent Company shall not change till the achievement of Financial Closure and the shareholding pattern of the bidding entity shall not change till one year from the date of COD.
- vii) In the event of Change in Shareholding an amount of ₹10 Lakh per Transaction as Facilitation Fee (non-refundable) shall be deposited by power producer/bidder to MSEDCL. However, the new entity should be of the same financial strength as the Successful Bidder.

3.15 Structuring of the Bid Selection Process

Single stage, double envelope bidding followed by reverse auction has been envisaged under this RfS. Bidders have to submit Technical bid and Financial bid (as per

Format 6.8) together in response to this RfS online. The financial tariff needs to be filled online while submitting the bids during the bidding process. The preparation of bid proposal has to be in the manner described in Clause 3.17 & 3.19.

3.16 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: 4** and **Annexure: 5**.

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 Section. 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.

The USD – INR exchange rate shall be considered as the corresponding Telegraphic Transfer (TT) buying rate specified by SBI 7 days before the last date of submission of bid.

3. **Earnest Money Deposit (EMD)** in the form as per **Format 6.3 A**.
4. **Performance Guarantee** (to be submitted 7 days before signing of PPA as specified in (Section 3.8) in the form as per **Format 6.3 B**.
5. **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 the MSEDCL. Board Resolution from each of the Consortium Members 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.
6. 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.
 7. Bidder shall ensure that the technology to be adopted shall be commercially established technology as per **Annexure: 1**. Final details of the same shall be submitted within 7 months from the date of execution of PPA.
 8. **Format 6.6: Format for Disclosure**
 9. Tie-up of Financing Arrangements for the projects within 15 months from the date of issue of LoA. Bidder shall give an **undertaking for Commitment to Financial Closure** as per **Format 6.8**
 10. Attachments
 - i) Memorandum of Association (MoA), Articles of Association (AoA) needs to be attached along with the bid. The bidder should also highlight the relevant provision in the Object Clause of the MoA relating to generation and sale of Power / Energy / Renewable Energy / Solar Power/ Wind Power Plant development.

- ii) In case, there is no mention of above provision 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), MoA, AoA of the SPV highlighting the relevant provision of Object Clause relating to generation and sale of Power / Energy / Renewable Energy / Solar Power/ Wind power plant development has to be submitted prior to signing of PPA.

- iii) Certificate of Incorporation of Bidding Company / all member companies of Bidding Consortium.
- iv) A certificate of shareholding of the bidding company, its Parent and Ultimate Parent (if any), duly certified by a practicing Chartered Accountant / Company Secretary as on a date within two weeks prior to the last date of bid submission.
- v) Documents containing information about the Promoters and their shareholding in the Company (as on a date within 30 days prior to the last date of bid submission) to MSEDCL indicating the controlling shareholding at the stage of submission of response to RfS to MSEDCL as per Clause 3.14. MSEDCL 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.
- vi) Certified copies of annual audited accounts for the last financial year, i.e. FY 2017-18 shall be required to be submitted; OR in case the Bidder is a newly formed company, supported by documentary evidence of its recent formation at RoC, then the certificate issued by a Chartered Accountant with certified copy of Balance sheet, Profit & Loss account, Schedules and cash flow statement supported with bank statement (if available) shall be required to be submitted.

Foreign Bidders following other than April-March as financial year, may submit their audited annual accounts of previous two years as per relevant laws / acts of their country of origin and the same shall be duly certified by a practicing Chartered Accountant of India.

vii) Certificate from Chartered Accountants, certifying the Net worth of the bidder as per Clause 3.5.1(i) as on 31st March, 2018 or in case the Bidder is a newly formed company, supported by documentary evidence of its recent formation at ROC or in case the net worth of the Bidder as on 31st March 2018 is not meeting the criteria as per Clause 3.5.1(i), then the certificate issued by a Chartered Accountant computing net worth based on certified copy of Balance Sheet, Profit & Loss account, Schedules and cash flow statement supported with bank statement shall be required to be submitted.

3.17 Important Notes and Instructions to Bidders

- i) 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.
- ii) 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.
- iii) 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, MSEDCL 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.
- iv) If the event specified at point (iii) above is discovered after the execution of PPA, consequences specified in PPA shall apply.
- v) Response submitted by the Bidder shall become the property of the MSEDCL and MSEDCL shall have no obligation to return the same to the Bidder. However, the EMDs submitted by unsuccessful Bidders shall be returned as specified in Section 3.8.
- vi) All documents of the response to RfS (including RfS, PPA, Corrigenda (if any) Addenda (if any) and all other documents uploaded on <https://etender.mahadiscom.in> as part of this RfS) submitted online must be digitally signed by the person authorized by the Board as per Format 6.4.
- vii) The response to RfS shall be submitted as mentioned in Section 3.19. 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, MSEDCL reserves the right to seek additional information from the Bidders, if found necessary, during the course of evaluation of the response to RfS.

- viii) 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.
- x) Bidders shall mention the name of the contact person, contact number, email address and complete address of the Bidder in the covering letter.
- xi) Response to RfS that are incomplete, which do not substantially meet the requirements prescribed in this RfS, will be liable for rejection by MSEDCL.
- xii) Response to RfS not submitted in the specified formats will be liable for rejection by MSEDCL.
- xiii) Bidders delaying in submission of additional information or clarifications sought will be liable for rejection.
- xiv) 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 MSEDCL of the obligation of the Bidder to furnish the said data/information unless the waiver is in writing.
- xv) Only MERC and/ or Bombay High Court shall have exclusive jurisdiction in all matters pertaining to this RfS.

3.18 Non-responsive Bid

The electronic response to RfS submitted by the bidder along with the documents submitted offline to MSEDCL 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 Cost of RfS and/or Processing fee as mentioned in the Bid Information Sheet.

- b. Non-submission of EMD in acceptable form along with RfS document.
- c. Response to RfS (offline as well as online) not received by the due date and time of bid submission;
- d. Non submission of the original documents mentioned at Section 3.19 A by due date and time of bid submission;
- f. Any indication of tariff 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. Bidder or any of its Affiliates is a willful defaulter to any lender
- i. 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
- j. 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.
- k. Conditional bids shall be summarily rejected.

3.19 Method of Submission of Response to RfS by the Bidder

A. Documents to be Submitted Offline (in Original)

The bidder has to submit the documents in original as part of Response to RfS to the address mentioned in Bid Information Sheet before the due date and time of bid submission.

Bidding Envelope: Superscribed as “Bidding Envelope containing Covering Envelope” at the top of the Envelope and “Name & Address of the Bidder” on the left hand side bottom must contain the following:

- i. Covering Envelope: Superscribed as “Covering Envelope Containing Cost of RfS Document, Processing Fee, Bank Guarantee towards EMD, and Covering Letter,

Power of Attorney (if applicable), Consortium Agreement (if applicable), Board Resolution” must contain the following:

- DD/Pay order towards Cost of RfS Document as mentioned in Bid Information Sheet.
- Processing Fees in the form DD/Pay Order as mentioned in the Bid Information Sheet
- Bank Guarantee towards EMD as mentioned in the Bid Information Sheet (as per Format 6.3A). One EMD shall be submitted.
- Covering Letter as per Format-6.1,
- Power of Attorney as per Format 6.2 (if applicable),
- Board Resolution as per Format 6.4
- Consortium Agreement as per Format 6.5 (if applicable)
- Letter for Disclosure, as per format 6.6
- Undertaking for commitment to Financial Closure as per format 6.8
- CA Certificate certifying Net Worth
- List of Shareholders / Promoters / Directors

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

Response to RfS for Purchase of 500 MW Flexible Power Through Competitive Bidding Process Followed By E-Reverse Auction From Grid Connected Renewable Energy - Storage Projects On Long Term Basis	
Capacity of Project	_____ MW
No. of packages bid for	
RfS Reference No.	RfS No. MSEDCL / Renewable Energy Storage Power/XXX dated XXX
Submitted by	(Enter Full name and address of the Bidder)

Authorized Signatory	(Signature of the Authorized Signatory) (Name of Signatory) (Stamp of Bidder)
Bid Submitted to	Chief Engineer (Renewable Energy) Maharashtra State Electricity Distribution Co. Ltd. (MSEDCL), Power Purchase Section, 5th Floor, 'Prakashgad', Bandra (East), Mumbai - 400 051

B. Documents to be submitted Online

Detailed instructions to be followed by the bidders for online submission of response to RfS are stated as **Annexure: 4 and Annexure: 5**. 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 offline documents and fails to submit the online bid, then the same shall be treated as incomplete bid and Cost of RfS, Processing fee submitted shall be encashed and the EMD(s) shall be returned.

All documents of the response to RfS submitted online must be digitally signed on <https://etender.mahadiscom.in> 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 person as mentioned below.

- i) Formats - 6.1, 6.2 (if applicable), 6.3 A, 6.4, 6.5 (if applicable), 6.6, 6.8
- ii) All supporting documents regarding meeting the eligibility criteria

The bidder will have to fill the Electronic Form provided at the <https://etender.mahadiscom.in> as part 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-6.7 of this RfS document;

Only single tariff bid for all the Projects shall have to be filled online in the Electronic Form for the financial bid shall be provided at the <https://etender.mahadiscom.in>. 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.

3.20 Validity of the Response to RfS

The Bidder shall submit the response to RfS which shall remain valid up to One Hundred Eighty (180) days from the last date of submission of response to RfS ("Bid Validity"). MSEDCL reserves the right to reject any response to RfS which does not meet the aforementioned validity requirement.

3.21 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. MSEDCL shall not be responsible in any way for such costs, regardless of the conduct or outcome of the bid process.

3.21.1 Clarifications / Pre Bid meeting / Enquires / Amendments

- i) Clarifications / Doubts, if any, on RfS document may be emailed and/or through <https://etender.mahadiscom.in>.
- ii) MSEDCL 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 MSEDCL's response will be uploaded on MSEDCL's website as well as MSEDCL's bidding portal <https://etender.mahadiscom.in> If necessary, amendments, clarifications, elaborations shall be issued by MSEDCL which will be notified on MSEDCL's website and e-bidding portal. 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.

3.22 Right of MSEDCL to Reject a Bid

MSEDCL 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.

3.23 Pre and Post LoA Compliance

Timely completion of all milestones i.e. signing of PPA, meeting Financial Closure requirements, conditions subsequent, commissioning, etc. will be the sole responsibility of the Successful Bidder and MSEDCL shall not be liable for issuing any intimations / reminders to them for timely compliance of milestones and/or submission of compliance documents. Any checklist shared with the Bidder / Successful Bidder by MSEDCL for compliance of milestones shall be for the purpose of facilitation only. Any additional documents required as per the conditions of RfS and PPA must be timely submitted by the Bidder / Successful Bidder.

3.24 Right to Contracted Capacity & Energy

3.24.1 In case the Renewable Energy Project Developer / Supplier is connected to the Maharashtra - STU network with Contracted Capacity subject to applicable regulations of Appropriate Commission, Grid Code, applicable laws as amended from time to time:

Particulars	Description
Availability of the Contracted Capacity	a. Subject to the Planned Maintenance & Allied Activities Period (as defined below), the Project shall be deemed to be available for 100% of the Contracted Capacity for each of the 96 time-blocks of a day.
Energy requisition by Buyer	<p>b. On day-ahead basis, before 08:00 AM of Delivery Date-1, Buyer (MSEDCL), shall convey their next-day (Delivery Date) requirement to the Supplier (Renewable Energy Project Developer), for each of the 96 time-blocks (hereinafter referred to as the "Required Energy"), subject to the following conditions:</p> <p>c. Buyer can requisition full Contracted Capacity in any of its peak demand hours, subject to the maximum of Daily Energy over a day.</p> <p>d. However, Buyer shall not requisition higher than the Contracted Capacity at any time.</p> <p>e. Buyer shall requisition full Contracted Capacity in two slots for minimum continuous period of 2 hours.</p> <p>f. Daily Energy may be requisitioned by the Buyer during 0:00–24:00 hrs in 2 slots of minimum 2 hours.</p>
Supply obligations of the Supplier	<p>g. Against the Required Energy as sought by the Buyer, the Supplier shall provide its revised generation schedule for each time-block (hereinafter referred to as the "Scheduled Energy"). Provided that the Scheduled Energy shall be within $\pm 10\%$ of the Required Energy for each time-block.</p> <p>h. In case the Scheduled Energy is beyond $\pm 10\%$ of the Required Energy in any time-block, the Supplier shall pay the penalty to the Buyer, which shall be equal to the energy shortfall beyond $\pm 10\%$ of</p>

Particulars	Description
	<p>Required Energy for that time-block, multiplied by the difference between IEX landed rate and PPA Tariff for that time-block. (Zero if IEX landed rate is less than the PPA Tariff). Hereinafter referred to as "Short-Scheduled Energy Penalty".</p> <p>i. However, on monthly basis, the total Generation of the month shall be within $\pm 3\%$ of the total Required Energy for the month.</p> <p>j. In case the total Generation for the month is beyond $\pm 3\%$ of the total Required Energy for the month, the Supplier shall pay the penalty to the Buyer, which shall be equal to the energy shortfall beyond $\pm 3\%$ of Required Energy for the month, multiplied by the difference between IEX landed rate (average market clearing price for that month) for that month and PPA Tariff. (zero if IEX landed rate is less than the PPA Tariff). Hereinafter referred to as "Short Generation Penalty".</p> <p>k. The above penalties shall not be applicable to the extent the Supplier arranges the power from alternate sources.</p>
Planned Maintenance & Allied Activities	<p>l. For a total of 30 days in a year (continuous or non-continuous), hereinafter referred to as the "Planned Maintenance & Allied Activities", the Supplier shall be required to supply atleast 50% of its above-referred supply obligations, and the above-referred penalties shall be applicable on such days.</p> <p>m. The Supplier shall select these 30 days with at least 7-day advance notice to the DISCOMs.</p>
Basis of PPA Tariff Payment	<p>n. The PPA Tariff shall be paid for the scheduled Generation quantity.</p> <p>o. Any deviation between Scheduled Energy and Generation for each time-block would be dealt with as per applicable MERC / CERC regulations as amended from time to time.</p>
Offtake obligations of the Buyer	<p>p. Required Energy requisitioned by the Buyer over a day shall be within $\pm 3\%$ of the Daily Energy.</p> <p>q. In case of shortfall, the Buyer shall pay penalty to the Supplier which shall be equal to the shortfall, multiplied by the difference between the PPA Tariff and IEX net realisation for the day (zero if IEX realisation rate for the day is higher than PPA Tariff).</p>

3.24.2 In case the Renewable Energy Project Developer / Supplier is connected to the CTU or STU Network of any another state subject to applicable regulations of Appropriate Commission, Grid Code, applicable laws as amended from time to time:

Particulars	Description
Availability of the Contracted Capacity	a. Same as Clause 3.24.1
Energy requisition by Buyer	b. Same as Clause 3.24.1 c. Same as Clause 3.24.1 d. Same as Clause 3.24.1 e. Same as Clause 3.24.1 f. Same as Clause 3.24.1
Supply obligations of the Supplier	g. Same as Clause 3.24.1 h. Same as Clause 3.24.1 i. Same as Clause 3.24.1 j. In case the total Scheduled Energy for the month is beyond $\pm 3\%$ of the total Required Energy for the month, the Supplier shall pay the penalty to the Buyer, which shall be equal to the energy shortfall beyond $\pm 3\%$ of Required Energy for the month, multiplied by the difference between IEX landed rate (average market clearing price for that month) for that month and PPA Tariff. (Zero if IEX landed rate is less than the PPA Tariff). Hereinafter referred to as "Short Generation Penalty". k. Same as Clause 3.24.1
Planned Maintenance & Allied Activities	l. Same as Clause 3.24.1 m. Same as Clause 3.24.1
Basis of PPA Tariff Payment	n. The PPA Tariff shall be paid for the Scheduled Energy quantity. o. Any deviation between Scheduled Energy and Generation for each time-block would be dealt with as per applicable MERC / CERC regulations as amended from time to time.
Offtake obligations of the Buyer	p. Same as Clause 3.24.1 q. Same as Clause 3.24.1

- 3.24.3 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.
- 3.24.4 The above limits shall be subject to grid / evacuation / open access non-availability beyond the control of the Supplier (subject to certification from SLDC/RLDC), and force majeure. The above penalties shall not be applicable under such events.

SECTION 4 : BID EVALUATION AND SELECTION OF PROJECTS

4 Bid evaluation methodology and selection of Projects

4.1 Bid Evaluation

Bid evaluation will be carried out considering the information furnished by Bidders as per the provisions specified in SECTION 3 of this RfS. To ensure competitiveness, the minimum number of qualified Bidders required would be two. If the number of qualified bidders is less than two, even after three attempts of bidding, MSEDCL may continue with the bidding process with the consent of MERC.

The detailed evaluation procedure and selection of bidders are described in this Section.

4.2 Techno-commercial Evaluation of bidders

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

- i. The first envelope (Technical Bid submitted online) of only those bidders will be opened by MSEDCL whose required documents as mentioned at Section 3.19 are received at MSEDCL's office on or before the due date and time of bid submission.
- ii. Bid responses 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.
- iii. Subject to Section 3.19, MSEDCL 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, MSEDCL 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 MSEDCL within 2 days from the date of such intimation from MSEDCL. All correspondence in this regard shall be made through email / <https://etender.mahadiscom.in> 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. MSEDCL shall not be responsible for rejection of any bid on account of the above.

- iv. 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):

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.

- i) Second Envelope (containing Tariff) of only those bidders shall be opened whose technical bids are found to be qualified.
- ii) The bidders including its Parent, Affiliate or Ultimate Parent or any Group Company will have to submit bid (single application) quoting tariff per kWh for the project. Tariff can be quoted up to two places of decimal only. If it is quoted with more than two digits after decimal, it shall be ignored after first two decimal places. (For e.g. if the quoted tariff is Rs. 5.337, then it shall be considered as Rs. 5.33).
- iii) In this step, evaluation will be carried out based on tariff quoted by the Bidders.

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 MSEDCL. Thereafter MSEDCL will take appropriate action in consultation with MERC.

- iv) 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.
- v) Ranking of bidders after Financial Bid Evaluation: In case of financial bids received from all bidders are in the form of tariff, ranking of bidders shall be done accordingly. For example:

Bidder	Submitted Financial bid	Ranking
B8	Rs. 2.30 (Tariff in Rs./ kWh)	L1
B5	Rs. 2.70 (Tariff in Rs./ kWh)	L2
B1	Rs. 2.80 (Tariff in Rs./ kWh)	L3

Bidder	Submitted Financial bid	Ranking
B4	Rs. 2.80 (Tariff in Rs./ kWh)	L3
B2	Rs. 2.90 (Tariff in Rs./ kWh)	L4
B3	Rs. 2.91 (Tariff in Rs./ kWh)	L5
B7	Rs. 2.95 (Tariff in Rs./ kWh)	L6
B6	Rs. 3.00 (Tariff in Rs./ kWh)	L7
B10	Rs. 3.10 (Tariff in Rs./ kWh)	L8
B9	Rs. 3.20 (Tariff in Rs./ kWh)	L9
B11	Rs. 3.30 (Tariff in Rs./ kWh)	L9

4.3 Reverse Auction (Step-3)

- 4.3.1 The reverse auction shall be conducted on <https://etender.mahadiscom.in>. Reverse Auction shall be carried out as specified in “Bid Information Sheet” of this RfS.
- 4.3.2 All the techno-commercially qualified bidders would be eligible for reverse auction.
- 4.3.3 Shortlisted bidders for Reverse Auction will be able to login into <https://etender.mahadiscom.in> for reverse auction 15 minutes before the start time of reverse auction.
- i) During 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 of the minimum decrement value mentioned in previous Section. 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) In the bidder’s bidding window, the following information can be viewed by the bidder:
 1. Its tariff as their initial start price and there after last quoted tariff

- along with project capacity for which the bidder is qualified;
2. 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 60 minutes (sixty minutes) with a provision of auto extension by 8 minutes (eight minutes) from the scheduled / extended closing time if any fresh bid is received in last eight minutes of auction period or extended auction period. If no valid bid is received during last eight minutes of auction period or extended auction period, then the reverse auction process will get closed.

4.4 Selection of Successful Bidder

- 4.4.1 The bidder with lowest quoted tariff (being L1) shall be selected irrespective of their quoted capacity and shall be declared as the successful bidder.
- 4.4.2 In case of tie for the Tariff among two or more bidders, the bidder having the highest capacity shall be selected as the successful Bidder.
- 4.4.3 Further, if the Capacity as well as the Tariff is same for two or more bidders, then they will be considered in the chronological order of their last bid with preference given to the bidder who has quoted his last bid earlier than others.
- 4.4.4 In the above case (as mentioned in Clause 4.4.3), if the time of quote also becomes exactly same among the bidders and there is a situation of tie, then the ranking among these bidders shall be done as follow:
- Step – 1: Lowest rank will be given to the bidder who has quoted the lowest in Financial Bid (Electronic Form) 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.
- 4.4.5 After the completion of selection process, Letter of Award (LOA) will be issued to the Successful Bidder. In case of Consortium being selected as Successful Bidder, the LOA shall be issued to the Lead Member of the Consortium.

In all cases, MSEDCL's decision regarding selection of bidder through Reverse Auction or otherwise based on tariff or annulment of tender process shall be final and binding on all participating bidders.

Note: The allocation of cumulative project capacity shall be closed at 500 MW. However, in no case, shall the capacity of a project selected under this RfS, be less than 50 MW. In case the partial capacity

offered to the last Bidder after completion of the bid is lower than 50% of the total quoted capacity offered by such Bidder, the Bidder shall have an option to refuse such offered partial capacity, and the BG against EMD submitted by such Bidder shall be returned along with those of the unsuccessful Bidders.

In case the partial capacity offered to the last Bidder after completion of the bid 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 bid to the successful Bidders not exceeding 500 MW. In case the last Bidder refuses to accept such partial capacity offered by MSEDCL, the Bank Guarantee against EMD submitted by such Bidder shall be encashed by MSEDCL.

SECTION 5: OTHER PROVISIONS

Section 5: Other Provisions

5.1 General Design of the Facility:

The Bidder shall ensure to operate and maintain the Facility in accordance with the relevant technical standards in terms of the Electricity Act 2003 and Rules, Regulations, Orders and Policy decisions there under.

The Bidder shall ensure that the Facility at all times (Applicable for Intra-State Projects only):

- a. Have SCADA installation/ any other continuous communication facility for transferring the data of Solar Energy generated from the Facility's switchyard to the State Grid's Sub-Station;
- b. Have installed Special Energy Meter (SEM) with telecommunication facility with Availability Based Tariff (ABT) and Automated Meter Reading (AMR) feature as per relevant CEA specifications / regulations as may be applicable.
- c. Moreover, it shall be mandatory to provide real time visibility of electricity generation to MSLDC at Airoli, Navi Mumbai, Maharashtra through RTU-DC, V-SAT.

5.2 Role of State Nodal Agency -

SNA appointed by state government will provide necessary support to facilitate the required approvals and sanctions in a time bound manner so as to achieve commissioning of the Projects within the scheduled time line. This may include facilitation in the following areas:-

- a) Coordination among various State and Central agencies for speedy implementation of projects
- b) Support during commission of projects and constitute Commissioning Committee to verify commissioning of the projects and issue commission certificates.

5.3 Role of STU / CTU

It is envisaged that the STU/ CTU will provide transmission system to facilitate the evacuation of power from the Projects which may include the following:

Upon application for Connectivity as per MERC / CERC Regulations, STU / CTU shall coordinate with the concerned agencies for grant of connectivity.

SECTION 6: FORMATS FOR BID SUBMISSION

MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED

POWER PURCHASE AGREEMENT

**FOR PURCHASE OF FLEXIBLE SCHEDULABLE POWER THROUGH COMPETITIVE BIDDING
PROCESS FOLLOWED BY E-REVERSE AUCTION FROM GRID CONNECTED RENEWABLE
ENERGY PROJECT SOURCES WITH ENERGY STORAGE FACILITY ON LONG TERM BASIS**

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This Power Purchase Agreement is made and entered into at Mumbai on this day of --- 2019 between M/s----- Company having its registered office -----at -----India (hereinafter referred to as "Renewable Energy Project Developer", which expression shall, unless repugnant to the context or meaning thereof, include its successors and assignees) as party of first part.

AND

Maharashtra State Electricity Distribution Company Limited incorporated under the Companies Act 1956 (1 of 1956) having its Registered office at Prakashgad, Bandra (East), Mumbai – 400 051, (hereinafter referred to individually, as "MSEDCL" or "Power Procurer", which expression shall, unless repugnant to the context or meaning thereof, include its successors and assignees) as party of the second part.

MAHARASHTRA ELECTRICITY DISTRIBUTION COMPANY LIMITED incorporated under The Companies Act 1956 (1 of 1956) having its Registered office at **Prakashgad, Plot G 9, Prof. Anant Kanekar Marg, Bandra (East), Mumbai 400 051**, (hereinafter referred to individually, as "MSEDCL" or "Power Procurer", which expression shall, unless repugnant to the context or meaning thereof, include its successors and assignees) as party of the second part.

In order to fulfil the renewable power purchase obligation (RPO) and to cater to the power demand of the State experiencing intra-day variations, MSEDCL intends to procure flexible power which can be supplied to meet peak demand/varying Demand requirements at any time during the day. With the objective to promote the renewable energy with energy storage technology for optimal and efficient utilization of transmission infrastructure and land, reducing the variability in renewable power generation and achieving better grid stability, MSEDCL envisage to procure 500 MW Flexible Schedulable Power through Competitive Bidding Process followed by E-Reverse Auction from Grid Connected Renewable Energy Sources with Energy Storage Facility on Long Term Basis [conducted online on MSEDCL's web-based portal followed by e-reverse auction]. MSEDCL invited proposals for procurement of 500 MW Flexible Schedulable Power through Competitive Bidding Process followed by E-Reverse Auction from Grid Connected Renewable Energy Sources with Energy Storage Facility on Long Term Basis. The power shall be schedulable for 8 hours in two (2) slots with one (1) slot of at least 2 continuous hours with $\pm 10\%$ capacity. The Total Maximum Quantum of energy to be procured per annum is 1460 MUs from 500 MW of renewable energy capacity i.e. MSEDCL shall procure only up to 2.92 MUs per MW of capacity per annum, of flexible schedulable power. Now, MSEDCL shall enter this Power Purchase Agreement/s (PPA/s) with the successful bidder(s) selected based on reverse auction results.

WHEREAS MSEDCL vide RfS No. MSEDCL / Flexible Schedulable Renewable Power with

Storage Facility/XX/ dated XXXX has floated tender for procurement power from Renewable Energy Projects with Energy Storage facility through Competitive Bidding (followed by e-reverse auction) and the Renewable Energy Project Developer has been declared Successful Bidder pursuant to Letter of Award (LoA) dated for development of Renewable Energy Project with Energy Storage facility of MW capacity located within or outside Maharashtra state and sale of electrical energy, so produced, for commercial purposes from such Power Plant to MSEDCL.

AND, WHEREAS the Renewable Energy Project Developer has furnished Performance Bank Guarantee no..... dated amounting to Rs. XX C r o r e (Calculated at Rs. 20 Lakh / MW) as per the RfS No. MSEDCL / Flexible Schedulable Renewable Power with Storage Facility/XX/ dated XXXX.

AND, WHEREAS the Renewable Energy Project Developer desires to set-up R e n e w a b l e Energy Power Project with Energy Storage facility Plant at

AND, WHEREAS the Renewable Energy Project Developer has taken responsibility to deliver the contracted capacity at the Delivery Point.

AND, WHEREAS the Parties hereby agree to execute this Power Purchase Agreement setting out the terms and conditions for the sale of power by Renewable Energy Project Developer to MSEDCL.

NOW THEREFORE IN VIEW OF THE FOREGOING PREMISES AND IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREINAFTER SET FORTH, MSEDCL AND THE RENEWABLE ENERGY PROJECT DEVELOPER, EACH TOGETHER WITH THEIR RESPECTIVE SUCCESSORS AND PERMITTED ASSIGNS, A PARTY AND COLLECTIVELY THE PARTIES, HEREBY AGREE AS FOLLOWS:

1 ARTICLE : DEFINITIONS

1.1 For all purposes of this Agreement, the following words and expressions shall have the respective meanings set forth below:

"Agreement" or "PPA" shall mean this Power Purchase Agreement, if not defined explicitly, executed hereof, including the schedules hereto, amendments, modifications and supplements made in writing by the Parties from time to time.

"AMR" shall mean Automated Meter Reading.

"Approvals" means the permits, clearances, licenses and consents as are listed in Schedule 3 hereto and any other statutory approvals.

"Billing Period" means (subject to Article 6.1 of the Agreement) the calendar month ending with the Metering Date. The first Billing Period shall commence from the Commercial Operation Date and end with the Metering Date corresponding to the month in which the Commercial Operation Date occurs.

"Billing Date" shall be the first Business Day after the Metering Date of each Billing Period.

"Business Day" shall mean a Day other than Sunday or a statutory holiday on which banks remain open for business in Mumbai.

"Buying Entity" or "Buying Entities" or "Buyer" or "Buyers" means Maharashtra State Electricity Distribution Company Limited (MSEDCL) who shall sign the Power Purchase Agreement with the SUPPLIER;

"Change in Law" shall have the meaning ascribed thereto in ARTICLE 9 of this Agreement.

"Commissioning" with respect to the Project/ Unit as certified by respective statutory authority/SLDC/MSEDCL shall mean when all equipment's as per rated capacity has been installed and energy has flown into the grid.

"Commercial Operation Date" with respect to the Project / Unit shall mean the date on which the Project/ Unit is commissioned (certified by respective statutory authority/SLDC/MSEDCL) and available for commercial operation and such date as specified in a written notice given at least 30 days in advance by the Successful Bidder to MSEDCL."

“**CERC**” means Central Electricity Regulatory Commission.

“**Competent Court**” means the Supreme Court of India or any High Court, or any tribunal or any similar judicial or quasi-judicial body that has jurisdiction in relation to issues relating to the Project.

“**Contracted Capacity**” shall mean AC MW capacity of the Renewable Energy Project from any of the Renewable Energy technology as approved and defined by Ministry of New & Renewable Energy, along with Storage capacity contracted between parties for supply of flexible daily energy by the Renewable Energy Project Developer at the Delivery Point from the Project. Daily Required Energy from the project would be calculated on Contracted Capacity. For instance, for 100 MW of Contracted Capacity, Daily Required Energy would be 1.20 MU (100 MW * 12 Hrs per day)

“**Contract Year**” shall mean, with respect to the initial Contract Year, the period beginning on the Commercial Operation Date and ending at 12.00 midnight on 31st March of that Fiscal Year i.e. a period of twelve months commencing on April 1 and ending on following March 31. Each successive Contract Year shall coincide with the succeeding Fiscal Year, except that the final Contract Year shall end on the date of expiry of the Term or on Termination of this Agreement whichever is earlier.

“**Capacity Utilisation Factor (CUF)**” shall have the ratio of actual gross energy generated by the project to the equivalent energy output at its rated capacity over the year;

“**Daily Energy**” shall mean 12-15 MWh of power supply per day per MW of the Contracted Capacity by the RENEWABLE ENERGY PROJECT DEVELOPER

“**Delivered Energy**” means the kilowatt hours of Electricity accounted for at the Delivery Point and as certified by SLDC / RLDC / DISCOM / Transco.

“**Delivery Point/ Interconnection Point**” shall mean Maharashtra State periphery where the power from the selected Project will be accounted for scheduling and billing. Accordingly:

For projects located outside Maharashtra (whether connected to CTU or to STU of their home States)	Delivery Point shall be Maharashtra State periphery i.e., the point at which the CTU network is connected to the Intra-State Transmission network of Maharashtra. Accordingly, all charges & losses, including the STU transmission charges & losses of the Bidder’s / RENEWABLE ENERGY PROJECT DEVELOPER’s home State, POC, scheduling / SLDC / RLDC charges, etc. shall be borne by the Bidder / RENEWABLE ENERGY PROJECT DEVELOPER.
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For projects located in Maharashtra and connected to Maharashtra -STU	Delivery point shall be where Interconnection point of Renewable Energy Project Developer is connected to the Intra-State Transmission network of Maharashtra.
For projects located inside Maharashtra, but connected to CTU	Delivery Point will be Maharashtra State periphery. Accordingly, all charges & losses, including the POC, scheduling / RLDC charges, etc. shall be borne by the Bidder / RENEWABLE ENERGY PROJECT DEVELOPER.

“Due Date of Payment” in respect of a Tariff Invoice means the date, which is 30 (thirty) days from the date of receipt of such invoices by the designated official of the MSEDCL.

“Effective Date” shall mean the date of execution of Power Purchase Agreement (PPA) by both the parties.

"Electricity Laws" shall mean the Electricity Act, 2003 and the relevant Rules, Notifications, and amendments issued there under and all other Laws in effect from time to time and applicable to the development, financing, construction, ownership, operation or maintenance or regulation of electric generating companies and Utilities in India, the rules, regulations and amendments issued by the respective state regulatory commission/MERC / CERC from time to time.

"Emergency" means a condition or situation of physical damage to electrical system including the Grid System, which threatens the safe and reliable operation of such system or which is likely to result in disruption of safe, adequate and continuous electric supply beyond the interconnection point Grid System or could endanger life or property.

“Expiry Date” shall mean the date occurring after twenty-five (25) years from the Scheduled Commercial Operation Date.

“Financial Closure” or **“Project Financing Arrangements”** shall mean arrangement of necessary funds by the Renewable Energy Project Developer 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 a legally binding agreement for commitment of such finances.

"Financing Documents" mean the agreements and documents (including asset leasing arrangements) entered/to be entered into between the Renewable Energy Project Developer and the Financing Parties relating to the financing of the Project.

“Financing Parties” shall mean the parties financing the Project, pursuant to the

Financing Documents.

"Force Majeure Event" shall have the meaning set forth in ARTICLE 8.

"GoI" shall mean the Government of the Republic of India and any agency, legislative body, department, political subdivision, authority or instrumentality thereof.

"GoM" shall mean the Government of the State of Maharashtra and any agency, legislative body, department, political subdivision, authority or instrumentality thereof.

"Government Instrumentality" shall mean the GoI, the GoM, respective state govt. and their ministries, inspectorate, departments, agencies, bodies, authorities, legislative bodies.

"Grid System" shall mean state STU/ CTU power transmission system /distribution system through which Delivered Energy is evacuated and distributed.

"kV" shall mean kiloVolts.

"kWh" shall mean kiloWatt-hour.

"Law" shall mean any valid legislation, statute, rule, regulation, notification, directive or order, issued or promulgated by any Governmental Instrumentality.

"Letter of Award (LoA)" shall mean the letter dated issued by MSEDCL to the Renewable Energy Project Developer for award of the Contract.

"MERC" means the Maharashtra Electricity Regulatory Commission

"Metering Date" for a Billing Period, means the midnight of the last Day of the calendar month.

"Metering Point" shall mean the point at which energy shall be measured and accounted for supply to MSEDCL. Metering shall be at the interconnection point for the selected project.

"MNRE" means the Ministry of New and Renewable Energy Project.

"Monthly Charge" shall have the meaning set forth in ARTICLE 5.

"MRI" shall mean Meter Reading Instrument.

"MW" means MegaWatt

"O & M Default" shall mean any default on the part of the Renewable Energy

Project Developer for a continuous period of ninety (90) days to (i) operate and/or (ii) maintain (in accordance with Prudent Utility Practices), the Project at all times.

“Performance Bank Guarantee” shall mean the irrevocable unconditional bank guarantee submitted by the Renewable Energy Project Developer as per the RfS No. MSEDCL / Flexible Schedulable Renewable Power with Storage Facility/XX/ dated XXXX.

“Project” shall mean a Renewable Energy along with Energy Storage (facility) Grid Interactive Power Generating Station to be established by the Developer in or outside Maharashtra and shall include land, buildings, plant, machinery, ancillary equipment, material, switch-gear, transformers, protection equipment and the like necessary to deliver the Electricity generated to MSEDCL at the Delivery Point.

“Project Capacity” shall mean the maximum MW AC capacity of power injection from which Contracted Capacity to be supplied by the Renewable Energy Project Developer to MSEDCL at the single point of injection on which the Power Purchase Agreement has been signed;

“Prudent Utility Practices” shall mean those practices, methods, techniques and standards, that are generally accepted for use in electric utility industries taking into account conditions in India, and commonly used in prudent electric utility engineering and operations to design, engineer, construct, test, operate and maintain equipment lawfully, safely, efficiently and economically as applicable to power stations of the size, service and type of the Project, and that generally conform to the manufacturers' operation and maintenance guidelines.

“Renewable Energy Project Developer” means the Bidding Company or a Bidding Consortium participating in the bid and having been selected and allocated a renewable energy project with energy storage facility by MSEDCL through a competitive bidding process.

“SBI 1 Year MCLR Rate” means 1 year Marginal Cost of Funds Based Lending Rate (MCLR) fixed by State Bank of India (SBI) / any replacement thereof by SBI for the time being in effect applicable for 1 year period, as on 1st April of the respective financial year in accordance with regulations and guidelines of Reserve Bank of India. In absence of such rate, any other arrangement that substitutes such rate as mutually agreed to by the Parties.

“SCADA” means the Supervisory Control and Data Acquisition System (SCADA) installed for recording and transferring the online data.

“Scheduled COD” or “Scheduled Commercial Operation Date” shall mean the date

..... (Insert a date within 36 (Thirty Six) months from the date of execution of the PPA) as declared by the Renewable Energy Project Developer.

"Short Generation Penalty " shall mean as defined in Clause in 3.4;

"Short-Scheduled Energy Penalty" shall mean as defined in Clause in 3.4;

"SLDC" means the State load dispatch center.

"SNA" shall mean respective State Nodal Agency, which is MEDA in Maharashtra, for the purpose of the implementation of the Renewable Energy Project with Energy Storage facility.

"Storage" or "Energy Storage" shall mean systems/devices/projects/part of projects that can capture energy produced at one time for use at a later time. This would include Energy Storage systems such as pump storage, battery storage, fly wheels, compressed air, super-capacitors etc.

"STU or State Transmission Utility" shall mean the Maharashtra State Energy Transmission Company of the state in which the project is located as it is MSETCL (Maharashtra State Energy Transmission Company Limited) in case of Maharashtra state.

"Tariff" shall have the meaning set forth in ARTICLE 5.

"Tariff Invoices" shall have the meaning set forth in ARTICLE 6.

"Technical Limits" means the limits and constraints described in SCHEDULE 2, relating to the operations, maintenance and dispatch of the Project.

"Term" means the term of the Agreement as defined in ARTICLE 10.

1.2 Interpretation:

- a. Unless otherwise stated, all references made in this Agreement to "Articles" and "Schedules" shall refer, respectively, to Articles of, and Schedules to, this Agreement. The Schedules to this Agreement form part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement.
- b. In this Agreement, unless the context otherwise requires (i) the singular shall include plural and vice versa; (ii) words denoting persons shall include partnerships,

firms, companies and MSEDCL (iii) the words "include" and "including" are to be construed without limitation and (iv) a reference to any Party includes that Party's successors and permitted assigns.

2 ARTICLE: LICENCES, PERMITS

The Renewable Energy Project Developer, at its sole cost and expense, shall acquire and maintain in effect all clearances, consents, permits, licenses and approvals required from time to time by all regulatory / statutory competent authority (ies) in order to enable it to perform its obligations under the Agreement.

3 ARTICLE: OBLIGATIONS

3.1 Obligations of the Renewable Energy Project Developer:

- i. Renewable Energy Project Developer shall develop the project based on the renewable energy sources as approved by MNRE along with adequate Energy Storage.
- ii. The Renewable Energy Project Developer shall obtain all statutory approvals, consents, clearances and permits required for the Project as per the terms of this Agreement, at its cost in addition to those Approvals as listed in SCHEDULE 3.
- iii. The Renewable Energy Project Developer shall obtain financial closure within Fifteen (15) months from date of execution of this PPA unless such completion is affected by any Force Majeure Event
 - a. Developer shall make 100 % Project financing arrangements and provide necessary certificates to MSEDCL in this regard;
 - b. Developer shall produce the documentary evidence of allotment/possession / right to use of 100% of the land identified for the Project.
 - c. Developer shall obtain transmission/connectivity approval from CTU/STU and provide necessary documents in this regard.
 - d. Developer shall submit the details of all planned/proposed components of the renewable energy project like solar panels, inverters and wind turbine generators, Energy Storage along with necessary purchase order/agreements for the project.

An extension for the attainment of the financial closure can however be considered by MSEDCL, on the sole request of the RENEWABLE ENERGY PROJECT DEVELOPER, on advance payment of extension charges of Rs. 10,000/- per day per MW. In case of any delay in depositing this extension charge, the Renewable Energy Project Developer has to pay an interest on this extension charge for the days lapsed beyond due date of Financial Closure @ SBI MCLR (1Year).

This extension will not have any impact on the SCOD. Any extension charges paid so, shall be returned to the Renewable Energy Project Developer without any interest on achievement of successful commissioning within the SCOD on pro-rata basis, based on the Project Capacity commissioned on SCOD. However, in case of any delay in commissioning of the project beyond the Scheduled Commissioning Date, the amount as deposited above by the Renewable Energy Project Developer shall not be refunded by MSEDCL.

- iv. The Renewable Energy Project Developer undertakes to be responsible, at RENEWABLE ENERGY PROJECT DEVELOPER's own cost and risk, for:

- a. 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; and
- 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. continuance of supply of Contracted Capacity from the Commercial Operation Date/Project Commissioning/Early Supply Commencement throughout the term of the Agreement; and
- d. connecting the Power Project switchyard with the Interconnection Facilities; and
- e. maintaining its controlling shareholding up to a period of one (1) year after Commercial Operation Date of the Project;
- f. fulfilling all obligations undertaken by the Renewable Energy Project Developer under this Agreement.
- g. obtaining Open Access and executing transmission service agreement/equivalent with CTU/STU as the case may be, for evacuation of the Contracted Capacity and maintaining it throughout the term of the Agreement.
- h. The Renewable Energy Project Developer shall be responsible to for directly coordinating and dealing with the corresponding Buying Entity(ies), Load Dispatch Centres, Regional Power Committees, and other authorities in all respects in regard to declaration of availability, scheduling and dispatch of power and due compliance with deviation and settlement mechanism and the applicable Grid code/State/Central Regulations.

3.2 Information regarding Interconnection Facilities

The Renewable Energy Project Developer shall be required to obtain all information 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 RENEWABLE ENERGY PROJECT DEVELOPER's side 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 Renewable Energy Project Developer at his own cost.

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 Renewable Energy Project Developer to the extent the delay is attributable to the RENEWABLE ENERGY PROJECT DEVELOPER.

All costs and charges for supply of power including but not limited to the wheeling charges and losses up to and including at the Delivery Point associated with this arrangement will also be borne by the RENEWABLE ENERGY PROJECT DEVELOPER.

3.3 Purchase and sale of Contracted Capacity

Subject to the terms and conditions of this Agreement, the Renewable Energy Project Developer undertakes to sell to MSEDCL and MSEDCL undertakes to pay Tariff for all the energy supplied at the Delivery Point corresponding to the Contracted Capacity, subject to Article 3.4 of this Agreement.

3.4 Right to Contracted Capacity & Energy

3.4.1 In case the Renewable Energy Project Project Developer / Supplier is connected to the Maharashtra - STU network with Contracted Capacity subject to applicable regulations of Appropriate Commission, Grid Code, applicable laws as amended from time to time:

Particulars	Description
Availability of the Contracted Capacity	a. Subject to the Planned Maintenance & Allied Activities Period (as defined below), the Project shall be deemed to be available for 100% of the Contracted Capacity for each of the 96 time-blocks of a day.
Energy requisition by Buyer	b. On day-ahead basis, before 08:00 AM of Delivery Date-1, Buyer (MSEDCL), shall convey their next-day (Delivery Date) requirement to the Supplier (Renewable Energy Project Developer), for each of the 96 time-blocks (hereinafter referred to as the "Required Energy"), subject to the following conditions: c. Buyer can requisition full Contracted Capacity in any of its peak demand hours, subject to the maximum of Daily Energy over a day. d. However, Buyer shall not requisition higher than the Contracted Capacity at any time. e. Buyer shall requisition full Contracted Capacity in two slots for minimum continuous period of 2 hours. f. Daily Energy may be requisitioned by the Buyer during 0:00–24:00 hrs in 2 slots of minimum 2 hours.
Supply obligations of the Supplier	g. Against the Required Energy as sought by the Buyer, the Supplier shall provide its revised generation schedule for each time-block (hereinafter referred to as the "Scheduled Energy"). Provided that the Scheduled Energy shall be within $\pm 10\%$ of the Required Energy for each time-block. h. In case the Scheduled Energy is beyond $\pm 10\%$ of the Required Energy in any time-block, the Supplier shall pay the penalty to the Buyer, which shall be equal to the energy shortfall beyond $\pm 10\%$ of Required Energy for that time-block, multiplied by the difference

Particulars	Description
	<p>between IEX landed rate and PPA Tariff for that time-block. (Zero if IEX landed rate is less than the PPA Tariff). Hereinafter referred to as "Short-Scheduled Energy Penalty".</p> <p>i. However, on monthly basis, the total Generation of the month shall be within $\pm 3\%$ of the total Required Energy for the month.</p> <p>j. In case the total Generation for the month is beyond $\pm 3\%$ of the total Required Energy for the month, the Supplier shall pay the penalty to the Buyer, which shall be equal to the energy shortfall beyond $\pm 3\%$ of Required Energy for the month, multiplied by the difference between IEX landed rate (average market clearing price for that month) for that month and PPA Tariff. (zero if IEX landed rate is less than the PPA Tariff). Hereinafter referred to as "Short Generation Penalty".</p> <p>k. The above penalties shall not be applicable to the extent the Supplier arranges the power from alternate sources.</p>
Planned Maintenance & Allied Activities	<p>l. For a total of 30 days in a year (continuous or non-continuous), hereinafter referred to as the "Planned Maintenance & Allied Activities", the Supplier shall be required to supply atleast 50% of its above-referred supply obligations, and the above-referred penalties shall be applicable on such days.</p> <p>m. The Supplier shall select these 30 days with at least 7-day advance notice to the DISCOMs.</p>
Basis of PPA Tariff Payment	<p>n. The PPA Tariff shall be paid for the scheduled Generation quantity.</p> <p>o. Any deviation between Scheduled Energy and Generation for each time-block would be dealt with as per applicable MERC / CERC regulations as amended from time to time.</p>
Offtake obligations of the Buyer	<p>p. Required Energy requisitioned by the Buyer over a day shall be within $\pm 3\%$ of the Daily Energy.</p> <p>q. In case of shortfall, the Buyer shall pay penalty to the Supplier which shall be equal to the shortfall, multiplied by the difference between the PPA Tariff and IEX net realisation for the day (zero if IEX realisation rate for the day is higher than PPA Tariff).</p>

3.4.2 In case the Renewable Energy Project Project Developer / Supplier is connected to the CTU or STU Network of any another state subject to applicable regulations of Appropriate Commission, Grid Code, applicable laws as amended from time to time:

Particulars	Description
Availability of the Contracted Capacity	a. Same as Clause 3.4.1
Energy requisition by Buyer	b. Same as Clause 3.4.1 c. Same as Clause 3.4.1 d. Same as Clause 3.4.1 e. Same as Clause 3.4.1 f. Same as Clause 3.4.1
Supply obligations of the Supplier	g. Same as Clause 3.4.1 h. Same as Clause 3.4.1 i. Same as Clause 3.4.1 j. In case the total Scheduled Energy for the month is beyond $\pm 3\%$ of the total Required Energy for the month, the Supplier shall pay the penalty to the Buyer, which shall be equal to the energy shortfall beyond $\pm 3\%$ of Required Energy for the month, multiplied by the difference between IEX landed rate (average market clearing price for that month) for that month and PPA Tariff. (Zero if IEX landed rate is less than the PPA Tariff). Hereinafter referred to as "Short Generation Penalty". k. Same as Clause 3.4.1
Planned Maintenance & Allied Activities	l. Same as Clause 3.4.1 m. Same as Clause 3.4.1
Basis of PPA Tariff Payment	n. The PPA Tariff shall be paid for the Scheduled Energy quantity. o. Any deviation between Scheduled Energy and Generation for each time-block would be dealt with as per applicable MERC / CERC regulations as amended from time to time.
Offtake obligations of the Buyer	p. Same as Clause 3.4.1 q. Same as Clause 3.4.1

3.4.3 Off-take Obligation of the MSEDCL:

As the Procurer has already been provided the facility for off-taking power on flexible basis (that is, obligation of off-taking 12-15 MWh/MW of contracted

capacity in a 24-hour period), the Procurer shall request for 100% of the REQUIRED ENERGY on daily basis with an allowed MSEDCL Daily Variation Limit of $\pm 3\%$.

Penalty for short-offtake: in case the Procurer does not schedule the 100% of REQUIRED ENERGY on daily basis on any day, the Procurer shall pay the penalty to the Renewable Energy Project Developer which shall be the short-offtake energy quantum in each time block multiplied by the difference between the PPA Tariff and IEX RTC power exchange rate for that block less transmission charges (Nil, if IEX exchange power rate is higher than the PPA Tariff).

The penalty payable by the Procurer, if any, although calculated on daily basis, shall be added in the monthly bills at the end of the relevant month.

3.5 Liquidated damages for delay in Commissioning the Grid Interactive Power Plant beyond Scheduled Commercial Operation Date

3.5.1 The Projects shall be commissioned within a period of 36 (Thirty Six) months from the date of execution of the PPA.

3.5.2 The Renewable Energy Project Developer shall have to submit Commissioning Certificate as verified, inspected and certified by authorized central / state agency/ RLDC/SLDC/MSEDCL. In case of failure to achieve this milestone, MSEDCL shall forfeit the Performance Bank Guarantee (PBG) in the following manner:

a) **Delay upto six (6) months from SCOD** – MSEDCL will forfeit total Performance Bank Guarantee on per day basis and proportionate to the balance Capacity not commissioned.

b) **In case the commissioning of the project is delayed beyond Six (6) months from SCOD** - the tariff discovered after e-Reverse Auction shall be reduced at the rate of 0.50 paise/kWh per day of delay for the delay in such remaining capacity which is not commissioned for the entire term of the PPA. The maximum time period allowed for commissioning of the full Project Capacity with encashment of Performance Bank Guarantee and reduction in the fixed tariff shall be limited to 45 months from the date of PPA or till the Tariff becomes zero, whichever is earlier.

However, MSEDCLs can allow extension of the commissioning schedule for a period of 3 months based on merit of the case. For any extension above 3 months, consent of Appropriate Government shall be necessary. LD penalty, tariff reduction would not be levied for the period of extension granted and maximum time limit of 45

months shall be extended accordingly.

4 ARTICLE: SYNCHRONISATION, COMMISSIONING AND COMMERCIAL OPERATION

4.1 Synchronization, Commissioning and Commercial Operation

- 4.1.1 The Renewable Energy Project Developer shall give written notice to the RLDC/SLDC/SNA/STU/ DISCOM, as the case may be, at least Thirty (30) days in advance of the date on which it intends to synchronize the Power Project to the Grid System.
- 4.1.2 Subject to Article 4.1.1, the Power Project may be synchronized by the Renewable Energy Project Developer to the Grid System when it meets all the connection conditions prescribed in the Grid Code and otherwise meets all other Indian legal requirements for synchronization to the Grid System.
- 4.1.3 The synchronization equipment and all necessary arrangements/ equipment including Remote Terminal Unit (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 Renewable Energy Project Developer at its generation facility of the Power Project at its own cost. The Renewable Energy Project Developer shall synchronize its system with the Grid System only after the approval of STU/CTU and SLDC/RLDC or MSEDCL.
- 4.1.4 The Renewable Energy Project Developer 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.
- 4.1.5 The Projects shall be commissioned within a period of 36 (Thirty Six) months from the date of execution of the PPA.
- 4.1.6 Part commissioning of the Project shall be accepted by MSEDCL subject to the condition that the Minimum Capacity for acceptance of first and subsequent part(s) commissioning shall be 50% of the capacity specified by the bidder in its bid for the particular/each site, without prejudice to the imposition of penalty, in terms of the PPA on the part which is not commissioned. Further, the installed capacity at a site shall be given the status of part commissioned only if it fulfills the configuration criteria as per definition of Renewable Energy Project Developer. However, the SCOD (Schedule Commercial Operation Date) will not get altered due to part- commissioning. Irrespective of dates of part commissioning or full commissioning, the PPA will remain in force for a period of 25 (twenty-five) years from the SCOD.
- 4.1.7 The early commissioning of project is permitted for full commissioning as well as part commissioning even prior to SCOD subject to the availability of evacuation arrangements. In case of early full commissioning or part commissioning, MSEDCL shall purchase the generation at the PPA tariff.

4.2 Performance Bank Guarantee:

- 4.2.1 The Performance Bank Guarantee furnished by Renewable Energy Project Developer to MSEDCL as specified in the bidding documents shall be for guaranteeing the commissioning / commercial operation of the project / unit up to the Contracted Capacity within SCOD.
- 4.2.2 If the Renewable Energy Project Developer fails to achieve Financial Closure within 15 months from the date of signing of PPA, the MSEDCL shall encash the Performance Bank Guarantee (PBG) unless the delay is on account of delay caused due to a Force Majeure. An extension for the attainment of the financial closure can however be considered by MSEDCL, on the sole request of the Renewable Energy Project Developer, on advance payment of extension charges of Rs. 10,000/- per day per MW. In case of any delay in depositing this extension charge, the Renewable Energy Project Developer has to pay an interest on this extension charge for the days lapsed beyond due date of Financial Closure @ SBI MCLR (1Year) and upon submission of a fresh Performance Bank Guarantee (PBG) with the same conditions, value and validity. This extension will not have any impact on the Scheduled Commissioning Date (SCOD). However, such amount of encashed PBG shall be returned to the Renewable Energy Project Developer without any interest within a period of 30 days of achievement of successful commissioning provided such commissioning is within the Scheduled Commissioning Date (SCOD) on pro-rata basis, based on the Project Capacity commissioned on SCOD. However, in case of any delay in commissioning of the project beyond the Scheduled Commissioning Date, the amount as deposited above by the Renewable Energy Project Developer shall not be refunded by MSEDCL.
- 4.2.3 If the Renewable Energy Project Developer fails to commission the project / Unit on or before Scheduled Commercial Operation Date, MSEDCL shall have the right to forfeit the Performance Bank Guarantee without prejudice to the other rights of the Renewable Energy Project Developer under this Agreement as per Article 4.2
- 4.2.4 MSEDCL shall release the Performance Bank Guarantee upon successful commissioning of full contracted capacity after adjusting Liquidated Damages (if any)

4.3 Dispatch and Scheduling:

- 4.3.1 The Renewable Energy Project Developer shall be required to Schedule its power as per the applicable regulations / requirements / guidelines of CERC/respective state regulatory commission and maintain compliance to the Grid Code requirements and directions, as specified by 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 to the account of the Renewable Energy Project Developer.
- 4.3.2 Renewable Energy Project Developer shall be responsible for deviations made by it from the dispatch schedule and for any resultant liabilities on account of charges for deviation as per applicable regulations.

5 ARTICLE: RATES AND CHARGES

5.1 Monthly Energy Charges:

- 5.1.1 The MSEDCL shall pay for the Scheduled /Delivered Energy as certified by RLDC / SLDC/Appropriate authority through Automated Meter Reading (AMR) /Meter Reading Instrument (MRI) /Joint Meter Readings (JMR)), for the Term of this Agreement from the Commercial Operation Date, to the Renewable Energy Project Developer every month. The Tariff payable by MSEDCL for energy purchased shall be as per Article below.
- 5.1.2 MSEDCL shall pay a **fixed rate of Rs. (in words Rs.----) per kWh** as discovered under the Competitive Bidding (followed by e-reverse auction) and as agreed by the Parties upon commissioning of a Unit / Project (as certified by RLDC/SLDC/MSEDCL) for delivered/scheduled energy during the period of PPA.
- 5.1.3 Provided that in case of the delay for the commissioning of the project over Six (6) months from SCOD, the tariff discovered under the Competitive Bidding process (followed by reverse auction) shall be reduced at the rate of 0.50 paise/kWh per day of delay for the delay in such remaining capacity which is not commissioned for entire term of PPA.
- 5.1.4 **Start-up power/Auxiliary consumption: In case of project located within Maharashtra,** MSEDCL shall supply electricity to the Renewable Energy Project Developer at the MSEDCL's prevailing HT Industrial Tariff in force from time to time and Renewable Energy Project Developer shall pay for the electricity consumed for start-up of the plant and for the auxiliary consumption of the generating plant at the prevailing HT Industrial Tariff. MSEDCL shall ensure that the power as required by the Renewable Energy Project Developer under reasonable notice shall be available without delay.
- 5.1.5 Reactive power charges shall be as per MERC/ respective state regulatory commission regulations and shall be payable by Renewable Energy Project Developer as per provisions of PPA.

6 ARTICLE: BILLING AND PAYMENT

6.1 Billing Provision:

6.1.1 The Renewable Energy Project Developer shall issue a signed monthly bill to MSEDCL. MSEDCL shall pay to the Renewable Energy Project Developer the monthly Tariff payment in accordance with the ARTICLE 5 of this PPA and Renewable Energy Project Developer based on Meter reading/AMR/MRI as certified by SLDC/RLDC or MSEDCL authority as may be applicable following the end of each month for the energy supplied and payment will be due on the thirtieth day following the delivery of the billing invoice.

6.2 Payment:

6.2.1 MSEDCL shall make payment of the amounts due in Indian Rupees within thirty (30) days from the date of receipt of the Tariff Invoice by modes of E- mail/Courier/Delivery by hand and as intimated by the designated office of MSEDCL.

6.3 Late Payment:

6.3.1 In event of delay in payment of Monthly bill by MSEDCL beyond its due date, a late Payment charge shall be payable by MSEDCL to the Renewable Energy Project Developer at 1.25% in excess of the prevailing SBI one year marginal cost of funds based lending rate (MCLR per annum/ any replacement thereof by SBI..

6.4 Rebate:

6.4.1 For payment of Bill on or before Due Date, the following Rebate shall be paid by the Renewable Energy Project Developer to MSEDCL in the following manner.

- a. A rebate of 1% shall be payable to MSEDCL for the payments made within a period of 15 days of the presentation of Tariff Invoice by modes as mentioned in Article 6.3.1 along with required supporting documents at MSEDCL office. No rebate shall be applicable for payment beyond 15 days of the presentation of Tariff Invoice.
- b. For the above purpose, the date of presentation of Bill shall be the next Business Day of delivery of the Tariff Invoice at MSEDCL.
- c. No rebate shall be payable on the Bills raised on account of taxes, duties, cess etc.

6.5 Payment Security:

6.5.1 Letter of Credit:

- a) MSEDCL shall establish and maintain irrevocable and unconditional revolving Letter of Credit in favour of, and for the sole benefit of, the Renewable Energy Project Developer for the contracted capacity. All the cost incurred by MSEDCL for opening, maintenance and other cost related to establishment of Letter of Credit shall be borne by MSEDCL.
- b) The Letter of Credit shall be established in favour of, and issued to, the Renewable Energy Project Developer on the date hereof and made operational thirty (30) days prior to due date of first invoice and shall be maintained consistent herewith by MSEDCL and all times during the Term of the Agreement.
- c) Such Letter of Credit shall be in form and substance acceptable to both the Parties and shall be issued by any Scheduled/Nationalised Bank and be provided on the basis that:
 - i. In the event a Tariff Invoice or any other amount due and undisputed amount payable by MSEDCL pursuant to the terms of this Agreement is not paid in full by MSEDCL as and when due, the Letter of Credit may be called by the Renewable Energy Project Developer for payment of undisputed amount.
 - ii. The amount of the Letter of Credit shall be equal to one month's projected payments during first contract year and thereafter during each contract year, the amount of Letter of Credit shall be equal to one month's average billing of previous contract year.
 - iii. The MSEDCL shall replenish the Letter of Credit to bring it to the original amount within 30 days in case of any valid drawdown.
- d) The Letter of Credit shall be renewed and/or replaced by the MSEDCL not less than 30 days prior to its expiration.
- e) Payment under the Letter of Credit: The drawl under the Letter of Credit in respect of a Tariff Invoice (excluding supplementary bills) shall require:
 - i. a copy of the metering statement jointly signed by the official representatives of both the Parties, supporting the payments attributable to the Delivered Energy in respect of such Tariff Invoice.

- ii. a certificate from the Renewable Energy Project Developer stating that the amount payable by MSEDCL in respect of such Tariff Invoice has not been paid and disputed by MSEDCL till the Due Date of Payment of the Tariff Invoice.

6.6 Payment Security Fund:

The Payment Security Fund shall be suitable to support payment for at least 3 (three) months' billing of all the Projects tied up with such fund.

6.7 Disputes:

- 6.7.1 In the event of a dispute as to the amount of any Tariff Invoice, MSEDCL shall notify the Renewable Energy Project Developer of the amount in dispute and MSEDCL shall pay the Renewable Energy Project Developer 100% of the undisputed amount within the due date provided either party shall have the right to approach the MERC/CERC to effect a higher or lesser payment on the disputed amount. The Parties shall discuss within a week from the date on which MSEDCL notifies the Renewable Energy Project Developer of the amount in dispute and try and settle the dispute amicably.
- 6.7.2 If the dispute is not settled during such discussion then the payment made by MSEDCL shall be considered as a payment under protest. Upon resolution of the dispute, in case the Renewable Energy Project Developer is subsequently found to have overcharged, then it shall return the overcharged amount with an interest of SBI 1-year Marginal Cost of Funds Based Lending Rate (MCLR) per annum plus 125 basis points for the period it retained the additional amount and vice-versa.
- 6.7.3 MSEDCL / Renewable Energy Project Developer shall not have the right to challenge any Tariff Invoice, or to bring any court or administrative action of any kind questioning/modifying a Tariff Invoice after a period of three years from the date of the Tariff Invoice is due and payable.
- 6.7.4 Where any dispute arising out of or in connection with this agreement is not resolved mutually/amicably, then such dispute shall be raised before the MERC/CERC for adjudication of dispute.
- 6.7.5 The disputes beyond the jurisdiction of the MERC / CERC, shall be filed before the Bombay High Court, Mumbai.

7 ARTICLE: METERING

7.1 Meters

- i. For installation of Meters, Meter testing, Meter calibration and Meter reading and all matters incidental thereto, the Renewable Energy Project Developer and MSEDCL 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.
- ii. The Renewable Energy Project Developer shall bear all costs pertaining to installation, testing, calibration, maintenance, renewal and repair of meters at RENEWABLE ENERGY PROJECT DEVELOPER's side
- iii. In addition to ensuring compliance of the applicable codes, the SPD shall install Main & Check meters at the Interconnection Point, along with Stand-by meter(s) as per the applicable regulations of the State where the Project is located.

7.2 Reporting of Metered Data and Parameters

- i. The grid connected power plants will install necessary equipment for regular monitoring of ambient air temperature, wind speed and other weather and plant operating parameters and simultaneously for monitoring of the electric power generated from the plant.
- ii. Online arrangement would have to be made by the Renewable Energy Project Developer for submission of above data regularly for the entire period of this Power Purchase Agreement to the MSEDCL .
- iii. Reports on above parameters on monthly basis shall be submitted by the power developer to MSEDCL for entire period of PPA.

8 ARTICLE: FORCE MAJEURE

8.1 Force Majeure Events:

8.1.1 Neither Party shall be responsible or liable for or deemed in breach hereof because of any delay or failure in the performance of its obligations hereunder (except for obligations to pay money due prior to occurrence of Force Majeure events under this Agreement) or failure to meet milestone dates due to any event or circumstance (a "Force Majeure Event") beyond the reasonable control of the Party experiencing such delay or failure, including the occurrence of any of the following:

- i. acts of God;
- ii. typhoons, floods, lightning, cyclone, hurricane, drought, famine, epidemic, plague or other natural calamities;
- iii. acts of war (whether declared or undeclared), invasion or civil unrest;
- iv. any requirement, action or omission to act pursuant to any judgment or order of any court or judicial authority in India (provided such requirement, action or omission to act is not due to the breach by the Renewable Energy Project Developer or MSEDCL of any Law or any of their respective obligations under this Agreement);
- v. inability despite complying with all legal requirements to obtain, renew or maintain required licenses or Legal Approvals;
- vi. earthquakes, explosions, accidents, landslides; fire;
- vii. expropriation and/or compulsory acquisition of the Project in whole or in part by Government Instrumentality;
- viii. chemical or radioactive contamination or ionizing radiation; or
- ix. An event of force majeure affecting the concerned STU/DISCOM/ CTU, as the case may be, thereby affecting the evacuation of power from the delivery points by MSEDCL.
- x. damage to or breakdown of transmission facilities of CTU/ STU/DISCOM ;
- xi. Exceptionally adverse weather condition which are in excess of the statistical measure of the last hundred (100) years.

8.1.2 **Force Majeure Exclusions:** Force Majeure shall not include the following conditions, except to the extent that they are consequences of an event of Force Majeure:

- xii. Unavailability, Late Delivery or Change in cost of plants and machineries, equipment, materials, spares parts or consumables, etc for the project;
- xiii. Delay in performance of any contractor / sub-contractor or their agents;
- xiv. Non-performance resulting from normal wear and tear experience in power generation materials and equipment;

- xv. Strike or labour disturbances at the facilities of affected parties;
- xvi. In efficiency of finances or funds or the agreement becoming onerous to perform, and
- xvii. Non-performance caused by, or concerned with, the affected party's:
 - Negligent and intentional acts, errors or omissions;
 - Failure to comply with Indian law or Indian Directive; or
 - Breach of, or default under this agreement or any Project agreement or Government agreement.

8.1.3 The affected Party shall give notice to other party of any event of Force Majeure as soon as reasonably practicable, but not later than 7 days after the date on which such Party knew or should reasonably have known of the commencement of the event of Force Majeure. If any event of Force Majeure results in a breakdown of communication rendering it not reasonable to give notice within the applicable time limit specified herein, then the party claiming Force Majeure shall give notice as soon as reasonably practicable after reinstatement of communication, but not later than one day after such reinstatement.

Provided that such notice shall be a pre-condition to the affected party's entitlement to claim relief under this Agreement. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed, and the Affected Party shall give the other Party regular (and not less than monthly) reports on the progress of those remedial measures and such other information as the other party may reasonably request about the event/situation.

- a) The affected Party shall give notice to the other Party of (1) cessation of relevant event of Force Majeure; and (2) cessation of the effects of such event of Force Majeure on the performance of its rights or obligations under this agreement, as soon as practicable after becoming aware of each of these cessations.
- b) **Duty to perform and Duty to mitigate:** To the extent not prevented by a Force Majeure event, the affected party shall continue to perform its obligations pursuant to this agreement. The affected party shall use its reasonable efforts to mitigate the effect of any event of Force Majeure as soon as practicable.

8.2 Available Relief for a Force Majeure Event:

8.2.1 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. However, adjustment in tariff shall not be allowed on account of Force Majeure event.

8.2.2 For avoidance of doubt, neither Party's obligation to make payments of money due nor 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.

- 8.2.3 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 Events

9 ARTICLE: CHANGE IN LAW

9.1 Definitions

In this ARTICLE 9, the following terms shall have the following meanings:

9.1.1 "Change in Law" shall refer to the occurrence of any of the following events after the last date of the bid submission, resulting into any reduction or additional recurring/ non-recurring expenditure or any additional income to any party:

- the enactment, coming into effect, adoption, promulgation, amendment, modification or repeal (without re-enactment or consolidation) in India, of any law, including rules and regulations framed pursuant of such Law;
- the requirement to obtain a new consent, permit or license;
- any modification to the prevailing conditions prescribed for obtaining a consent, permit or license, not owing to any default of the Renewable Energy Project Developer;
- any change in the rates of any Taxes which have a direct effect on the Project.

However, Change in Law shall not include any change in taxes on corporate income or any change in any withholding tax on income or dividends.

9.2 Relief for Change in Law

- 9.2.1 In the event a Change in Law results in any adverse financial loss/ gain to the Renewable Energy Project Developer then, in order to ensure that the Renewable Energy Project Developer is placed in the same financial position as it would have been had it not been for the occurrence of the Change in Law, the Renewable Energy Project Developer/ Procurer shall be entitled to compensation by the other party, as the case may be, subject to the condition that the quantum and mechanism of compensation payment shall be determined and shall be effective from such date as may be decided by the MERC.
- 9.2.2 If a Change in Law results in the Renewable Energy Project Developer's costs directly attributable to the Project being decreased or increased by more than one percent (1%) of the estimated revenue from the Electricity for the Contract Year for which such adjustment becomes applicable or more, during Operation Period, the Tariff Payment to the Renewable Energy Project Developer shall be appropriately increased or decreased with due approval of MERC.
- 9.2.3 The Power Procurer / MSEDCL or the Renewable Energy Project Developer, as the case may be, shall provide the other Party with a certificate stating that the adjustment in the Tariff Payment is directly as a result of the Change in Law and shall provide supporting documents to substantiate the same and such certificate shall correctly reflect the increase or decrease in costs.

9.3 Notification of Change in Law

- 9.3.1 If the Renewable Energy Project Developer is affected by a Change in Law in accordance with ARTICLE 9.1 and wishes to claim change in Law under this Article, it shall give notice to MSEDCL of such Change in Law within 7 days after becoming aware of the same or should reasonably have known of the Change in Law.
- 9.3.2 Notwithstanding ARTICLE 9.3.1, the Renewable Energy Project Developer shall be obliged to serve a notice to MSEDCL if it is beneficially affected by a Change in Law. Without prejudice to the factor of materiality or other provisions contained in this Agreement, the obligation to inform the Procurer contained herein shall be material. Provided that in case MSEDCL has not provided such notice, the Renewable Energy Project Developer shall have the right to issue such notice to MSEDCL.
- 9.3.3 Any notice served pursuant to this Article 9.3.2 shall provide, amongst other thing, precise details of:
- a. The Change in Law: and

- b. The effect on MSEDCL of the matters referred to in Article 9.2

9.4 Tariff Adjustment Payment on account of Change in Law.

- 9.4.1 Subject to the application and Principles for computing impact of Change in Law mentioned in this ARTICLE 9, the adjustment in Monthly Tariff Payment shall be effective from:
 - i. The date of adoption, promulgation, amendment, re-enactment or repeal of the Law or Change in Law; or
 - ii. The date of Order/Judgement of the Competent Court or Tribunal or Indian Governmental Instrumentality, if the Change in Law is on account of a change in interpretation of Law.
- 9.4.2 The revised tariff shall be effective from the date of such Change in Law as approved by MERC, the Parties hereto have caused this Agreement to be executed by their fully authorised officers, and copies delivered to each Party, as of the day and year first above stated.
- 9.4.3 The payment for Change in Law shall be through Supplementary Bill. However, in case of any change in Tariff by reason of change in Law, as determined in accordance with this Agreement, the Monthly Invoice to be raised by the Renewable Energy Project Developer after such Change in Tariff shall appropriately reflect the changed Tariff.

10 ARTICLE: TERM, TERMINATION AND DEFAULT

10.1 Term of the Agreement:

- 10.1.1 This Agreement shall become effective upon the execution and delivery thereof by the Parties hereto and unless terminated pursuant to other provisions of the Agreement, shall continue to be in force for such time until the completion of a period of 25 years from the Scheduled Commercial Operation Date.
- 10.1.2 Any extension of the PPA period beyond 25 years from the SCOD of the project shall be through mutual agreements between the Successful Bidder and MSEDCL with such mutually agreed terms and conditions at least one hundred eighty (180) days prior to the PPA Expiry Date. Any extension beyond 40 years shall not be allowed in any case.
- 10.1.3 **Repowering:** The Renewable Energy Generator shall be allowed to repower the project once for a maximum period of six (6) months during the entire PPA term of 25 years. The generator shall not be in default for non-supply of power during this period of repowering. However, MSEDCL will be obliged to buy power only up to 2.92 MUs per MW of capacity (for which PPA has been signed) per annum, of flexible schedulable power post repowering.

10.2 Survival:

- 10.2.1 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 8 (Force Majeure), ARTICLE 10 (Events of Default and Termination), ARTICLE 11 (Dispute Resolution), ARTICLE 12 (Indemnity), ARTICLE 13 (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

10.3 Events of Default and the consequences thereof:

A. Renewable Energy Project Developer's Default:

The occurrence of any of the following events at any time during the Term of this Agreement shall constitute an Event of Default by Renewable Energy Project Developer:

- a) Failure to commission the project by scheduled commercial operation date or fails to supply power in terms of the PPA, or assigns or novates any of its rights or obligations contrary to the terms of the PPA.

- b) O &M Default on part of Renewable Energy Project Developer.
- c) Failure or refusal by Renewable Energy Project Developer to perform any of its material obligations under this Agreement including but not limited to financial closure.
- d) The Renewable Energy Project Developer fails to make any payment required to be made to Power Procurer under this agreement within three (3) months after the due date of a valid invoice raised by MSEDCL on the Renewable Energy Project Developer.
- e) In case Renewable Energy Project Developer is found to use the land for the purpose other than to develop the
- f) Renewable Energy Project on the site for the capacity under this agreement.
- g) If the Renewable Energy Project Developer (i) assigns or purports to assign its assets or rights in violation of this agreement; or (ii) transfers or novates any of its rights and / or obligations under this agreement, in violation of this agreement.
- h) If the Renewable Energy Project Developer becomes voluntarily or involuntarily the subject of proceeding under any bankruptcy or insolvency laws or goes into liquidation or dissolution or has a receiver appointed over it or liquidator is appointed, pursuant to Law, except where such dissolution of the Renewable Energy Project Developer is for the purpose of a merger, consolidated or reorganization and where the resulting entity has the financial standing to perform its obligations under this Agreement and creditworthiness similar to the Renewable Energy Project Developer and expressly assumes all obligations under this agreement and is in a position to perform them; or
- i) The Renewable Energy Project Developer repudiates this agreement.
- j) Change in controlling shareholding before the expiry of 1 (one) year from the COD or SCOD whichever is later.
- k) If Renewable Energy Project Developer fails to deposit an amount of Rs. 10 Lakh per Project per Transaction as Facilitation Fee (non-refundable), in the event of Change in Shareholding/Substitution of Promoters triggered by the Financial Institutions leading to signing of fresh PPA with a New Entity.
- l) Occurrence of any other event which is specified in this Agreement to be a material breach / default of the Renewable Energy Project Developer.

10.3.1 Upon being in default, the Renewable Energy Project Developer shall be liable to pay MSEDCL, damages, as detailed in the PPA. MSEDCL shall have the right to recover the said damages by way of forfeiture of bank guarantee without prejudice to resorting to any other legal course or remedy.

10.3.2 In addition to the levy of damages as aforesaid, in the event of a default by the Renewable Energy Project Developer, the lenders shall be entitled to exercise their rights of substitution, in accordance with the substitution agreement provided in the PPA and in concurrence with MSEDCL. However, in the event the lenders are unable to substitute the defaulting Renewable Energy Project Developer within the stipulated period, MSEDCL may

terminate the PPA and acquire the Project assets for an amount equivalent to 90% of the debt due, failing which, the lenders may exercise their mortgage rights and liquidate the Project assets.

B. MSEDCL's Default:

- (a) If MSEDCL is in default on account of reasons including inter alia:
- i. Default by MSEDCL in performing its obligation under this agreement,
 - ii. Failure to pay the monthly and / or supplementary bills beyond 90 days,
 - iii. If MSEDCL becomes voluntarily or involuntarily the subject of proceeding under any bankruptcy or insolvency laws or goes into liquidation or dissolution or has a receiver appointed over it or liquidator is appointed, pursuant to Law, except where such dissolution of MSEDCL 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 creditworthiness similar to MSEDCL and expressly assumes all obligations under this agreement and is in a position to perform them.

The defaulting Procurer shall, subject to the prior consent of the Renewable Energy Project Developer, novate its part of the PPA to any third party, including its Affiliates within the stipulated period.

- (b) In the event the aforesaid novation is not acceptable to the Renewable Energy Project Developer, or if no offer of novation is made by the defaulting Procurer within the stipulated period, then the Renewable Energy Project Developer may terminate the PPA and at its discretion require the defaulting Procurer to either:
- i. takeover the project assets by making a payment of the termination compensation equivalent to the amount of the debt due and the 150% (one hundred and fifty per cent) of the adjusted equity as detailed in the PPA or
 - ii. pay to the Renewable Energy Project Developer, 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 Renewable Energy Project Developer.
- (c) In the event of termination of PPA, any damages or charges payable to the CTU/STU/ DISCOM/ RLDC/ SLDC, for the connectivity of the plant, shall be borne by MSEDCL.

10.4 Termination:

10.4.1 Termination for Renewable Energy Project Developer's Default:

Upon the occurrence of an event of default as set out in Article 10.3 (A) above, MSEDCL may deliver a Default Notice to the Renewable Energy Project Developer in writing which shall specify in reasonable detail the Event of Default giving rise to the default notice, and calling upon the Renewable Energy Project Developer to remedy the same.

At the expiry of 30 (thirty) days from the delivery of this default notice and unless the Parties have agreed otherwise, or the Event of Default giving rise to the default notice has been remedied, MSEDCL may deliver a Termination Notice to the Renewable Energy Project Developer. MSEDCL may terminate this Agreement by delivering such a Termination Notice to the Renewable Energy Project Developer and intimate the same to the MERC. Upon delivery of the Termination Notice this Agreement shall stand terminated and MSEDCL shall stand discharged of all its obligations. The Renewable Energy Project Developer shall have liability to make payment within 30 days from the date of termination notice towards compensation to MSEDCL equivalent to six months billing based on 2.92 MUs per MW of capacity (for which PPA has been signed) per annum.

Where a Default Notice has been issued with respect to an Event of Default, which requires the co-operation of both MSEDCL and the Renewable Energy Project Developer to remedy, MSEDCL shall render all reasonable co-operation to enable the Event of Default to be remedied without any legal obligations.

10.4.2 Termination for MSEDCL's Default:

Upon the occurrence of an Event of Default as set out in Article 10.3 (B) above, the Renewable Energy Project Developer may deliver a Default Notice to MSEDCL in writing which shall specify in reasonable detail the Event of Default giving rise to the Default Notice, and calling upon MSEDCL to remedy the same.

At the expiry of 30 (thirty) days from the delivery of the Default Notice and unless the Parties have agreed otherwise, or the Event of Default giving rise to the Default Notice has been remedied, the Renewable Energy Project Developer may serve a "Suspension Notice" to MSEDCL for a duration not exceeding one year ("Suspension Period").

During the "Suspension Period" mentioned herein above, MSEDCL shall allow the Renewable Energy Project Developer to sell power from the project, to any third party, in the open market either by finding the said consumers on its own or

through any Central / State power trading utilities. In case of wheeling of power to such third parties, the transmission charges, transmission losses, wheeling charges and losses SLDC / RLDC charges and cross subsidy surcharge etc. shall be applicable as per MERC's regulation in force from time to time and paid directly to respective agencies by third party. No banking facility shall be allowed to Renewable Energy Project Developer and third parties.

Till expiry of the Suspension Period, MSEDCL will be entitled to cure its default and buy power from the Renewable Energy Project Developer. In the event MSEDCL fails to cure the default, the Renewable Energy Project Developer may terminate this Agreement by delivering a Termination Notice to MSEDCL / its successor entity and in such an event MSEDCL shall have liability to make payment within 30 days from the date of termination notice toward compensation to Renewable Energy Project Developer equivalent to 6 (six) months, or balance PPA period whichever is less, of charges for its contracted capacity for 2.92 MUs per MW of capacity (for which PPA has been signed) per annum, with the Project assets being retained by the Renewable Energy Project Developer.

11 ARTICLE: DISPUTE RESOLUTION

1. All disputes or differences between the Parties arising out of or in connection with this Agreement shall be first tried to be settled through mutual negotiation.
2. In the event of a dispute as to the amount of any Tariff Invoice, MSEDCL shall notify the Renewable Energy Project Developer of the amount in dispute and MSEDCL shall pay the Renewable Energy Project Developer 100% of the undisputed amount within the due date provided either party shall have the right to approach the MERC to effect a higher or lesser payment on the disputed amount.
3. The Parties shall discuss within a week from the date on which MSEDCL notifies the Renewable Energy Project Developer of the amount in dispute and try and settle the dispute amicably.
4. The Parties hereto agree to attempt to resolve all disputes arising hereunder promptly, equitably and in good faith.
5. Each Party shall designate in writing and communicate to the other Party its own representative who shall be authorized to resolve any dispute arising under this Agreement in an equitable manner and, unless otherwise expressly provided herein, to exercise the authority of the Parties hereto to make decisions by mutual agreement.
6. In the event that such differences or disputes between the Parties are not settled through mutual negotiations within sixty (60) days, after such dispute arises, then it shall be adjudicated by MERC in accordance with Law.
7. Where any dispute arises from a claim made by any change in or determination of 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 matter agreed to be referred to the MERC, such dispute shall be submitted to adjudication by the MERC. Appeal against the decision of the MERC shall be made only as per the provisions of the Electricity Act, 2003, as amended from time to time.
8. If the Disputes arises out of or in connection with any claims not covered in Article 11.7
 - a. such disputes shall be resolved by arbitration under Indian Arbitration and
 - b. Conciliation Act, 1996 and any amendments thereto.

- i. The arbitration tribunal shall consist of three arbitrators. Each party shall appoint an arbitrator and the arbitrators so appointed shall appoint the President Arbitrator.
 - ii. The place of the arbitration shall be Mumbai, India. The language of the arbitration shall be English.
 - iii. The arbitration tribunal's award shall be substantiated in writing. The arbitration tribunal shall also decide on the costs of the arbitration proceeding and the allocation thereof.
 - iv. Courts in Mumbai shall have exclusive jurisdiction to enforce any award under this agreement, subject to the applicable Laws
 - v. The provisions of this clause shall survive the termination of this PPA for any reason whatsoever
9. The disputes beyond the jurisdiction of MERC / CERC shall be filed before the Bombay High Court, Mumbai.

12 ARTICLE: INDEMNITY

12.1 Renewable Energy Project Developer's Indemnity:

12.1.1 The Renewable Energy Project Developer agrees to defend, indemnify and hold harmless MSEDCL, its officers, directors, agents, employees and affiliates (and their respective officers, directors, agents and employees) from and against any and all claims, liabilities, actions, demands, judgments, losses, costs, expenses, suits, actions **and** damages arising by reason of bodily injury, death or damage to property sustained by third parties that are caused by an act of negligence or the willful misconduct of the Renewable Energy Project Developer, or by an officer, director, sub-contractor, agent or employee of the Renewable Energy Project Developer except to the extent of such injury, death or damage as is attributable to the willful misconduct or negligence of, or breach of this Agreement by, MSEDCL, or by an officer, director, sub-contractor, agent or employee of the MSEDCL.

12.2 MSEDCL's Indemnity:

12.2.1 MSEDCL agrees to defend, indemnify and hold harmless the Renewable Energy Project Developer, its officers, directors, agents, employees and affiliates (and their respective officers, directors, agents and employees) from and against any and all claims, liabilities, actions, demands, judgments, losses, costs, expenses, suits, actions and damages arising by reason of bodily injury, death or damage to property sustained by third parties that are caused by an act of negligence or the willful misconduct of MSEDCL, or by an officer, director, sub-contractor, agent or employee of MSEDCL except to the extent of such injury, death or damage as is attributable to the willful misconduct or negligence of, or breach of this Agreement by, the Renewable Energy Project Developer, or by an officer, director, sub-contractor, agent or employee of the Renewable Energy Project Developer.

13 ARTICLE: MISCELLANEOUS PROVISIONS

13.1 Governing Law:

This Agreement shall be interpreted, construed and governed by the Laws of India.

13.2 Insurance:

The Renewable Energy Project Developer shall obtain and maintain necessary policies of insurance during the Term of this Agreement consistent with Prudent Utility Practice.

13.3 Books and Records:

The Renewable Energy Project Developer shall maintain books of account relating to the Project in accordance with generally accepted Indian accounting principles.

13.4 Waivers:

Any failure on the part of a Party to exercise, and any delay in exercising, exceeding three years, any right hereunder shall operate as a waiver thereof. No waiver by a Party of any right hereunder with respect to any matter or default arising in connection with this Agreement shall be considered a waiver with respect to any subsequent matter or default.

13.5 Limitation Remedies and Damages:

Neither Party shall be liable to the other for any consequential, indirect or special damages to persons or property whether arising in tort, contract or otherwise, by reason of this Agreement or any services performed or undertaken to be performed hereunder.

13.6 Notices:

Any notice, communication, demand, or request required or authorized by this Agreement shall be in writing and shall be deemed properly given upon date of receipt if delivered by hand or sent by courier, if mailed by registered or certified mail at the time of posting, if sent by fax when dispatched (provided if the sender's transmission report shows the entire fax to have been received by the recipient and only if the transmission was received in legible form), to :

In case of the Renewable Energy
ProjectDeveloper:

Name: _____ Designation: _____ Address : _____

Ph. Nos.: _____ Fax No.: _____

IncaseofMaharashtraStateElectricityDistributionCompanyLimited:

Designation: Chief Engineer (PP)

Address: 5th Floor, Prakashgad, Bandra (East), Mumbai – 400
051. Ph. Nos.: 022- 26474211

13.7 Severability:

Any provision of this Agreement, which is prohibited or unenforceable in any jurisdiction, shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and without affecting the validity, enforceability or legality of such provision in any other jurisdiction.

13.8 Amendments:

This Agreement shall not be amended, changed, altered, or modified except by a written instrument duly executed by an authorized representative of both Parties. However, MSEDCL may consider any amendment or change that the Lenders may require to be made to this Agreement.

13.9 Assignment:

Neither Party shall assign this Agreement nor shall any portion hereof without the prior written consent of the other Party, provided further that any assignee expressly assume the assignor's obligations thereafter arising under this Agreement pursuant to documentation satisfactory to such other Party. However, such assignment shall be permissible only for entire contracted capacity.

Provided however, no approval is required from MSEDCL for the assignment by the Renewable Energy Project Developer of its rights herein to the Financing Parties and their successors and assigns in connection with any financing or refinancing related to the construction, operation and maintenance of the Project.

In furtherance of the foregoing, MSEDCL acknowledges that the Financing Documents may provide that upon an event of default by the Renewable Energy Project Developer under the Financing Documents, the Financing Parties may cause the Renewable Energy Project Developer to assign to a third party the interests, rights and obligations of the Renewable Energy Project Developer thereafter arising under this Agreement. MSEDCL further acknowledges that the Financing Parties, may, in addition to the exercise of their rights as set forth in this Section, cause the Renewable Energy Project Developer to sell or lease the Project and cause any new lessee or purchaser of the Project to assume all of the interests, rights and obligations of the Renewable Energy Project Developer thereafter arising under this Agreement.

13.10 Entire Agreement, Appendices:

This Agreement constitutes the entire agreement between MSEDCL and the Renewable Energy Project Developer, concerning the subject matter hereof. All previous documents, undertakings, and agreements, whether oral, written, or otherwise, between the Parties concerning the subject matter hereof are hereby cancelled and shall be of no further force or effect and shall not affect or modify any of the terms or obligations set forth in this Agreement, except as the same may be made part of this Agreement in accordance with its terms, including the terms of any of the appendices, attachments or exhibits. The appendices, attachments and exhibits are hereby made an integral part of this Agreement and shall be fully binding upon the Parties.

In the event of any inconsistency between the text of the Articles of this Agreement and the appendices, attachments or exhibits hereto or in the event of any inconsistency between the provisions and particulars of one appendix, attachment or exhibit and those of any other appendix, attachment or exhibit MSEDCL and the Renewable Energy Project Developer shall consult to resolve the inconsistency.

13.11 Further Acts and Assurances:

Each of the Parties after convincing itself agrees to execute and deliver all such further agreements, documents and instruments, and to do and perform all such further acts and things, as shall be necessary or convenient to carry out the provisions of this Agreement and to consummate the transactions contemplated hereby.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their fully authorized officers, and copies delivered to each Party, as of the day and year first above stated.

<p>FOR AND ON BEHALF OF Renewable Energy Project Developer</p> <p>M/S.</p> <p>Authorised Signatory</p> <p>WITNESSES</p> <p>1. _____ ()</p>	<p>FOR AND ON BEHALF OF</p> <p>MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED</p> <p>MAHARASHTRA STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED</p> <p>WITNESSES</p> <p>1. _____ ()</p> <p>2. _____ ()</p>
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