

SECTION 2: DEFINITIONS

Section 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;

“Adjusted Equity” shall mean the Equity funded in Indian Rupees and adjusted on the first day of the current month (the “Reference Date”), in the manner set forth below, to reflect the change in its value on account of depreciation and variations in Wholesale Price Index (WPI), and for any Reference Date occurring between the first day of the month of Appointed Date (the date of achievement of Financial Closure) and the Reference Date;

- a. On or before Commercial Operation Date (COD), the Adjusted Equity shall be a sum equal to the Equity funded in Indian Rupees and expended on the Project, revised to the extent of one half of the variation in WPI occurring between the first day of the month of Appointed Date and Reference Date;
- b. An amount equal to the Adjusted Equity as on COD shall be deemed to be the base (the “Base Adjusted Equity”);
- c. After COD, the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, reduced by 0.333% (zero point three three three percent) thereof at the commencement of each month following the COD [reduction of 1% (one percent) per quarter of a year] and the amount so arrived at shall be revised to the extent of variation in WPI occurring between the COD and the Reference Date;

For the avoidance of doubt, the Adjusted Equity shall, in the event of termination, be computed as on the Reference Date immediately preceding the Transfer Date; provided that no reduction in the Adjusted Equity shall be made for a period equal to the duration, if any, for which the PPA period is extended, but the revision on account of WPI shall continue to be made.

“Affiliate” shall mean a Company that, directly or indirectly,

- i. controls, or
- ii. is controlled by, or
- iii. is under the common control with such Company.

The expression ‘control’ shall mean the ownership, directly or indirectly, of more than 50% of the voting shares of such Company or right to appoint majority Directors.

“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 assigns 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.

“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. However for avoidance of any doubt, it is clarified that the CUF shall be calculated on the Contracted Capacity; In any Contract Year, if ‘X’ MWh of energy has been metered out at the Delivery Point for ‘Y’ MW Project capacity, $CUF = (X \text{ MWh} / (Y \text{ MW} * 8766)) \times 100\%$;

“Chartered Accountant” for bidders or its Parent, Affiliate or Ultimate Parent or any Group Company incorporated in India, **“Chartered Accountant”** shall mean a person practicing in India or a firm whereof all the partners practicing in India as a Chartered Accountant(s) within the meaning of the Chartered Accountants Act, 1949;

For bidders 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 Commission.

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

“Commissioning” with respect to the Project as certified by SLDC/DISCOM 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 shall mean the date on which the commissioning certificate is issued upon successful commissioning of the full capacity of the Project or the last part capacity of the Project (certified by SLDC/DISCOM) as the case may be and such date as specified in a written notice given at least 30 days in advance by the Successful Bidder to MSEDCL.”

“Contracted Capacity” shall mean the capacity (in MW AC) contracted with MSEDCL for supply by the successful bidder at the Delivery Point from the Solar Power Project.

“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.

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

“Controlling shareholding” shall mean not less than 51% of the voting rights or paid up share capital in the Company/Consortium.

“CTU or Central Transmission Utility” shall mean the Central Transmission Utility as defined in Sub-Section (10) of section (2) of the EA-2003.

“Day” shall mean calendar day.

“Delivered Energy” means the kilowatt hours of energy actually fed and measured by the energy meters at the Delivery Point and as certified by SLDC/DISCOM.

In case, the project is connected through CTU Network, then all transmission charges and losses upto delivery point shall be to the account of the Successful Bidder. No change in charges / losses of CTU shall be covered under Change in Law.

“Delivery Point” shall mean the point(s) of connection(s) at which energy is delivered into the Grid System:

- For existing intra - state projects, at the existing metering point(s).
- For new intra - state projects, at the voltage level of 33 kV or above of STU/MSETCL sub-station. .
- For inter - state projects, energy settlement and delivery point shall be at Maharashtra STU/MSETCL periphery.

“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 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” shall mean as defined under clause 3.13 of the RfS document.

“Financing Documents” means 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.

“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) 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, nonbanking 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.

“Interconnection Point”; shall mean the point(s) of connection(s) at which the project is connected to the grid:

- For existing intra - state projects, at the existing metering point(s).
- For new intra - state projects, at the voltage level of 33 kV or above of STU/MSETCL sub-station, including the dedicated transmission line connecting the solar power project.
- For inter - state projects, energy settlement and delivery point shall be at Maharashtra STU/MSETCL periphery.

“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 Company Ltd (MSEDCL) to the Selected Bidder for award of contract.

“LLC” shall mean Limited Liability Company.

“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.

“MERC” shall mean Maharashtra Electricity Regulatory Commission.

“Metering Point”; For existing intra - state projects, metering shall be at the existing metering point(s); For new intra - state projects, metering shall be at the voltage level of 33 kV or above of STU/MSETCL sub-station including the dedicated transmission line connecting the solar power project. For inter - state projects, energy settlement and delivery point shall be at Maharashtra STU/MSETCL periphery.

All expenses including wheeling charges and losses between the Project and the Metering Point shall be paid by the Solar Power Generators without any reimbursement by the Procurer. All expenses including wheeling charges and losses in relation to the transmission and distribution beyond the Metering Point shall be borne by the Procurer.

“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 Solar PV Capacity (AC MW) commissioned as per clause 3.14.6 under Section 3.

“Performance Bank Guarantee” shall mean the irrevocable unconditional bank guarantee to be submitted by the successful bidder as per Section 3.9.

“PPA” shall mean the Power Purchase Agreement 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 Solar Photovoltaic Grid Interactive Power Station existing or to be established by the successful bidder comprising of number of units at single/multiple locations, and shall include land, buildings, plant, machinery, ancillary equipment, material, switch-gear, transformers, protection equipment and the like necessary to deliver the Electricity generated by the Project 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 of the project to be contracted with MSEDCL for supply from the Solar Power Project at the Delivery point.

“Project Developer” or “Developer” or “Solar Power Developer (SPD)” or “Bidder” shall mean the Bidding Company or a Bidding Consortium participating in the bid and having been selected and allocated a project capacity by MSEDCL (through a competitive bidding process), including the SPV formed by the selected bidder/ consortium for the purpose of setting up of project and signing of PPA with MSEDCL;

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

“REA” Regional Energy Account.

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

“RLDC” shall mean relevant Regional Load Dispatch Center established under sub section(1) of Section 27 of Electricity Act 2003.

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

“SCOD” or “Scheduled Commercial Operation Date” shall mean the date as declared by the

Successful Bidder in the PPA which shall not exceed 15 (fifteen) months from the date of execution of the PPA, for projects being set up in Solar park, and 18 (eighteen) months from the date of execution of the PPA, for projects being set up outside Solar park.

“SEA” means the State Energy Account issued by State Load Dispatch Centre and amendment thereto.

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

“SLDC” means the State Load Dispatch Center as notified by the State Government.

“Solar PV Project” means the solar Photo Voltaic Power project that uses sunlight for direct conversion into electricity through Photo Voltaic technology.

“STU or “State Transmission Utility” shall mean the State Transmission Utility notified by respective State Government under Sub-section (1) of Section 39 of the Act.

“SNA” means State Nodal Agency.

“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.

“Voltage of Delivery” means the voltage at which the Electricity generated by the Project is required to be delivered to the MSEDCL.

SECTION 3: BID INFORMATION AND INSTRUCTION TO BIDDERS