

## 1.2 Interpretation:

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

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

	<ol style="list-style-type: none"><li>1. Power Purchase Agreement</li><li>2. RfS Documents</li></ol>
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## **ARTICLE 2: LICENCES, PERMITS**

The HPD, 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.

# ARTICLE 3: OBLIGATIONS

## 3.1 Obligations of the HPD:

- i) The HPD shall obtain all statutory approvals, clearances and permits necessary for the Project at his cost in addition to those Approvals as listed in Schedule 3.
- ii) The HPD shall obtain financial closure within Twelve (12) months from date of execution of this PPA.
- iii) The HPD shall construct, operate and maintain the Project during the term of PPA at his cost and risk including the required Interconnection Facilities in close co- ordination with CTU/STU/DISCOM s feasibility.
- iv) The HPD shall sell all available capacity from identified Hybrid Power Project to the extent of contracted capacity on first priority basis to MSEDCL and not to sell to any third party.
- v) The HPD shall seek approval of CTU/STU/DISCOM in respect of interconnection Facilities and the Sending Station.
- vi) The commencement of supply of power up to the Contracted Capacity to MSEDCL no later than the Scheduled Commercial Operation Date and continuance of the supply of power throughout the Term of the Agreement; and
- vii) Connecting the Power Project switchyard with the Interconnection Facilities at the Metering Point/ Delivery Point/ Designated substation; and
- viii) The HPD shall undertake at its own cost construction/ upgradation of (a) the Interconnection Facilities, (b) the Transmission Lines and (c) Sending Station as per the specifications and requirements of CTU/STU/DISCOM, as notified to the HPD at Schedule 4.
- ix) The HPD shall undertake at its own cost maintenance of the Interconnection Facilities and the Sending Station, excluding the transmission line beyond the Sending Station as per the specifications and requirements of CTU/STU/DISCOM, as notified to the HPD, in accordance with Prudent Utility Practices.
- x) The HPD shall operate and maintain the Project in accordance with Prudent Utility Practices.
- xi) The HPD shall be responsible for all payments on account of any taxes, cesses,

duties or levies imposed by the GoI/State Government or its competent statutory authority on the land, equipment, material or works of the Project or on the Electricity generated or consumed by the Project or by itself or on the income or assets owned by it.

- xii) For evacuation facility and maintenance of the transmission, the HPD shall enter into separate agreement with CTU/STU/DISCOM, if applicable.
- xiii) To apply for startup/auxiliary power required for the plant from relevant utility & make payment for start-up/auxiliary power, reactive power as per applicable Regulations is the sole responsibility of the HPD.
- xiv) Fulfilling all other obligations undertaken by him under this Agreement.
- xv) The HPD shall operate the project, as per prevailing CEA/CERC/MERC Regulations and IEGC/State Grid Code as applicable.
- xvi) All charges pertaining to open access, scheduling charges and any other charges, losses up to the Delivery Point shall be borne by HPD.

### **3.2 Obligations of MSEDCL:**

- i) MSEDCL shall purchase the electricity generated by HPD as per the terms and conditions of this Agreement.
- ii) MSEDCL to open the Letter of Credit as per terms and conditions of this agreement

### **3.3 Liquidated damages for delay in Commissioning the Hybrid Project beyond SCOD**

- i) The Project shall be commissioned within SCOD. The HPD shall have to submit Commissioning Certificate as verified, inspected and certified by RLDC/SLDC/DISCOM.
- ii) 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.

In case the commissioning of the Project is delayed beyond Six (6) months from SCOD, For delay in commissioning beyond six months from SCOD, the contracted capacity shall stand reduced to the project capacity commissioned upto SCOD + 6 (six) months. The PPA for the balance capacity not commissioned shall be terminated

# **ARTICLE 4: SYNCHRONISATION, COMMISSIONING AND COMMERCIAL OPERATION**

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

- 4.1.1** The HPD shall give at least Thirty (30) days written notice to the RLDC/SLDC/SNA and MSEDCL, of the date on which it intends to synchronize the Hybrid Power Project to the Grid System.
- 4.1.2** Subject to Article 4.1.1, the Power Project may be synchronized by the HPD 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 HPD at its generation facility of the Power Project at its own cost. The HPD shall synchronize its system with the Grid System only after the approval of CTU/STU and RLDC/SLDC or DISCOM.
- 4.1.4** The HPD shall immediately after each synchronization / tripping of generator, inform the sub-station of the Grid System to which the Power Project is electrically connected in accordance with applicable Grid Code under intimation to MSEDCL. In addition, the HPD will inject in-firm power to grid time to time to carry out operational/ functional test prior to commercial operation. For avoidance of doubt, it is clarified that Synchronization / Connectivity of the Project with the grid shall not to be considered as Commissioning of the Project.
- 4.1.5** The HPD shall commission the Project as per procedure detailed in RfS within Eighteen (18) Months from the Effective Date. Declaration of COD shall only be done subject to the demonstration of the compliances as per RfS and subsequent upon the successful visit by the CTU/STU/Discom.
- 4.1.6** There can be part Commissioning of the Project. Part commissioning of the project shall mean that all equipment corresponding to the part capacity have been installed and commissioned and corresponding energy has flown into the grid..



- 4.1.7** The Part commissioning of the project may be accepted by MSEDCL subject to the condition that minimum capacity for acceptance of first part commissioning shall be 50 MW for inter-state project and 25 MW for intra-state project. The project shall be further commissioned in parts of at least 25 MW batch size, with last part could be balance capacity. The part commissioning should not be construed by just installing one source of generation, the HPD shall install both Solar and Wind capacities in proposed ratio on pro-rata basis.
- 4.1.8** In case the HPD wishes add up capacities (Wind +Solar) of multiple locations to meet part commissioning requirements, it is allowed only in case HPD completed entire capacity proposed under such locations.
- 4.1.9** In case of part-commissioning of the Project, land corresponding to the part capacity being commissioned, shall be required to be demonstrate possession of land by the HPD prior to declaration of commissioning of the said part capacity. Irrespective of dates of part commissioning, the PPA will remain in force for a period of 25 years from the SCD or from the date of full commissioning of the projects, whichever is earlier.
- 4.1.10** The HPD shall be permitted for full commissioning as well as part commissioning of the Project even prior to the SCD subject to availability of transmission connectivity and Long-Term Access (LTA). In cases of early part commissioning, the HPD will be free to sell it to any other entity provided first right of refusal will vest with MSEDCL. MSEDCL shall provide refusal within 30 (thirty) days from the receipt of the request, beyond which it would be considered as deemed refusal. Procurement of such early commissioned power, if accepted by the MSEDCL, shall be done at the PPA tariff.

## **4.2 Performance Bank Guarantee**

- 4.2.1** The Performance Bank Guarantee furnished by HPD to MSEDCL as prescribed in the RfS shall be for guaranteeing the commissioning / commercial operation of the Project up to the Contracted Capacity within SCOD.
- 4.2.2** If the Successful Bidder fails to achieve Financial Closure as prescribed in Clause 3.1, the MSEDCL shall encash the Performance Bank Guarantee (PBG) unless the 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 Wind-Solar Hybrid Power Generator, on payment of penalty of Rs.10000/- per day per MW (excluding