



STANDARD

POWER PURCHASE AGREEMENT

FOR

PROCUREMENT OF 740 MW SOLAR POWER

ON LONG TERM

from Grid Connected Solar Project

Between

..... [Insert Name of Solar Power Developer]

And

Nodal Railway

..... [Insert month and year]

Ref No: - REMCL/CO/Solar/Phase-I/2021

Date: - 04/06/2021

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This Power Purchase Agreement is made on the.....[Insert date] day of [Insert month] of [Insert year] at [Insert place]

Between

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

And

.....**Railway**, a part of Indian Railway (hereinafter referred to as “Railways”, having its office at (which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns) as a Party of the **Second Part**;

The SPD and**Railway** are individually referred to as ‘Party’ and collectively referred to as ‘Parties’.

WHEREAS:

- A. The Government of India has announced the Policy for promotion of the Solar Power in the country and has provided a target to achieve an aggregate installed capacity of 100 GW by the year 2022.
- B. The Ministry of Power, Government of India has issued the Guidelines for the Tariff- based Competitive Bidding Process for procurement of power generated from the Grid connected Solar Power Project vide Resolution dated 3rd August 2017, including subsequent amendments and clarifications.
- C. **REMC Limited** on behalf of Railways had accordingly invited proposals in a single stage bidding process. In the bidding process, through [tender notice/ Request for Qualification No. *** dated ***] applicants were shortlisted for the evaluation of their Price Bid. The successful bidder with lowest Price Bid will execute the solar project including operation and maintenance (O&M) of the system(s) for a period of 25 years after commissioning of project, on design, build, finance, operate and transfer (DBFOT) basis in terms of the above Policy of the Government of

India;

D. REMC Limited had initiated a Tariff Based Competitive Bid Process for procurement of 740 MW of the power generated from the Grid-connected Solar Power Projects in..... on the terms and conditions contained in the Request for Selection (herein after referred to as 'RFS') issued by REMC Limited vide RFS No **REMCL/CO/Solar/Phase-I/2021** dated **04/06/2021**.

E. **[Insert Name of the Solar Power Developer]** (hereinafter referred to as 'SPD')

has been selected in the Competitive Bidding Process for development, generation and supply of electricity from theMW Solar Power Project to be established by SPD atand for supply of such electricity by SPD to Zonal Railway.

F. REMC LTD. has issued the Letter of Award No.....dated... in favour of the SPD for development and establishment of theMW Solar Power Project at

in the State of..... as per the terms and conditions contained in the RfS, draft of this Power Purchase Agreement circulated at the time of the bidding and other bidding documents as well as the conditions contained in the Letter of Award;

G.**Railway** has agreed to purchase such Solar Power from the SPD as a Procurer as per the provisions of the RfS. Accordingly, Zonal Railway has agreed to sign/has signed a Power Purchase Agreement with the SPD as per the provisions of the above said scheme;

H. In terms of the RfS and the Bidding Documents, the SPD has furnished the Performance Bank Guarantee/ Payment on Order Instrument in the sum of Rs.....in favour of Zonal Railway as per the format provided as a part of the Bidding Documents and a copy of the Bank Guarantee/ Payment on Order Instrument provided is in Schedule – 1/ 2 to this agreement;

I. The SPD has fulfilled the terms of the bidding and the terms of the Letter of Award for signing this Power Purchase Agreement as a definitive agreement for establishing the Solar Power Project of.....MW at , [Insert Project location] for generation and sale of electricity by the SPD to Zonal Railway as per the Power Purchase Agreement to be entered into with the SPD;

J. Not used

K. The parties have agreed to execute this Power Purchase Agreement in terms of the provisions of the RfS, the bidding documents and the Letter of Award in regard to the terms and conditions for establishment of the Solar Power Project at.....,[Insert name of state] and for generation and supply of electricity by the SPD.

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

ARTICLE 1: DEFINITIONS AND INTERPRETATION

1.1 Definitions

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

“Act” or “Electricity Act, 2003”	shall mean the Electricity Act, 2003 and include any modifications, amendments and substitution from time to time;
“Adjusted Equity”	<p>Shall mean the Equity funded in Indian Rupees and adjusted on the first day of the current month (the “Reference Date”), in the manner set forth below, to reflect the change in its value on account of depreciation and variations in Wholesale Price Index (WPI), and for any Reference Date occurring between the first day of the month of Appointed Date (the date of achievement of Financial Closure) and the Reference Date;</p> <p>i. On or before Commercial Operation Date (COD), the Adjusted Equity shall be a sum equal to the Equity funded in Indian Rupees and expended on the Project, revised to the extent of one half of the variation in WPI occurring between the first day of the month of Appointed Date and Reference Date;</p> <p>ii. An amount equal to the Adjusted Equity as on COD shall be deemed to be the base (the “Base Adjusted Equity”);</p> <p>iii. After COD, the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, reduced by 0.333% (zero point three three three percent) thereof at the commencement of each month following the COD [reduction of 1% (one percent) per quarter of an year] and the amount so arrived at shall be revised to the extent of variation in WPI occurring between the COD and the Reference Date;</p> <p>For the avoidance of doubt, the Adjusted Equity shall, in the event of termination, be computed as on the Reference Date immediately preceding 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.</p>
“Agreement” or “Power Purchase Agreement” or “PPA”	shall mean this Power Purchase Agreement including its recitals and Schedules, amended or modified from time to time in accordance with the terms hereof;

"Appropriate Commission"	Unless otherwise stated, Appropriate Commission shall mean Central Electricity Regulatory Commission;
"Authorisation Letter for Land"	shall mean the letter issued by REMC Ltd. to the successful Bidder authorizing him to construct foundations and erect the Solar Power Plant on full or part of the said land.
"Bill Dispute Notice"	shall mean the notice issued by a Party raising a Dispute regarding a Monthly Bill or a Supplementary Bill issued by the other Party;
"Business Day"	Shall mean with respect to SPD and Zonal Railway, a day other than Sunday or a statutory holiday, on which the banks remain open for business in Delhi;
"Buying Entity"	Shall mean Zonal Railway who agreed to purchase the solar power from SPD and execute the Power Purchase Agreement with SPD, and requires Solar power to fulfill its solar RPO under respective RPO regulations;
"Capacity Utilization Factor" or "CUF"	<p>shall have the same meaning as provided in CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 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;</p> <p>In any Contract Year, if 'X' MWh of energy has been metered out at the Delivery Point for 'Y' MW Project capacity, $CUF = (X \text{ MWh} / (Y \text{ MW} * 8766)) * 100\%$;</p>
"CERC"	shall mean the Central Electricity Regulatory Commission of India, constituted under sub – section (1) of Section 76 of the Electricity Act, 2003, or its successors;
"CTU" or "Central Transmission Utility"	shall mean the Government Company notified by the Central Government under Sub-Section (1) of Section 38 of the Electricity Act, 2003.
"Change in Law"	shall have the meaning ascribed thereto in Article 12 of this Agreement;
"Commissioning"	The Project will be considered as commissioned if all equipment as per rated Project Capacity has been installed and energy has flown into grid, in line with the Commissioning procedures defined in the PPA.
"Commercial Operation Date (COD)"	shall mean the date on which the commissioning certificate is issued upon successful commissioning (as per provisions of this Agreement) of the project or the last part capacity; of the Project as the case may be;
"Competent Court of Law"	shall mean any court or tribunal or any similar judicial or quasi-judicial body in India that has jurisdiction to adjudicate upon issues relating to this Agreement;

“Consents, Clearances and Permits”	shall mean all authorizations, licenses, approvals, registrations, permits, waivers, privileges, acknowledgements, agreements, or concessions required to be obtained from or provided by any concerned authority for the purpose of setting up of the generation facilities and/ or supply of power;
“Consultation Period”	shall mean the period of ninety (90) days or such other longer period as the Parties may agree, commencing from the date of issuance of a SPD Preliminary Default Notice or Zonal Railway Preliminary Default Notice as provided in Article 13 of this Agreement, for consultation between the Parties to mitigate the consequence of the relevant event having regard to all the circumstances;
“Contract Year”	shall mean the period beginning from the Effective Date and ending on the immediately succeeding March 31 and thereafter each period of 12 months beginning on April 1 and ending on March 31 provided that: (i) in the financial year in which the Scheduled Commissioning Date would occur, the Contract Year shall end on the date immediately before the Scheduled Commissioning Date and a new Contract Year shall commence once again from the Scheduled Commissioning Date and end on the immediately succeeding March 31, and thereafter each period of twelve (12) months commencing on April 1 and ending on March 31, and (ii) provided further that the last Contract Year of this Agreement shall end on the last day of the Term of this Agreement
"Contracted Capacity"	shall mean [Insert capacity] MW contracted with Zonal Railway for supply by the SPD at the Delivery Point from the Solar Power Project. It shall be equal to the Project Capacity as defined;
“Day”	shall mean a day, if not a Business Day, the immediately succeeding Business Day.

<p>“Debt Due”</p>	<p>shall mean the aggregate of the following sums expressed in Indian Rupees outstanding on the Transfer Date:</p> <ul style="list-style-type: none"> i. The principal amount of the debt provided by the Senior Lenders under the Financing Agreements for financing the Total Project Cost (the ‘Principal’) but excluding any part of the principal that had fallen due for repayment 2 (two) years prior to the Transfer Date; ii. All accrued interest, financing fees and charges payable under the Financing Agreements on, or in respect of, the debt referred to in sub- clause (i) above until the Transfer Date but excluding: (i) any interest, fees or charges that had fallen due one year prior to the Transfer Date, <p>(ii) any penal interest or charges payable under the Financing Agreements to any Senior Lender, (iii) any pre-payment charges in relation to accelerated repayment of debt except where such charges have arisen due to Utility Default, and (iv) any Subordinated Debt which is included in the Financial Package and disbursed by lenders for financing the Total Project Cost.</p> <p>Provided that if all or any part of the Debt Due is convertible in to Equity at the option of Senior Lenders and/or the Concessionaire, it shall for the purposes of this Agreement be deemed not to be Debt Due even if no such conversion has taken place and the principal thereof shall be dealt with as if such conversion had been undertaken.</p> <p>Provided further that the Debt Due, on or after COD, shall in no case exceed 80% (eighty percent) of the Total Project Cost.</p>
<p>“Delivery Point”</p>	<p>“Delivery Point” shall mean the point at the voltage level of CTU/STU Sub-station including the dedicated transmission line connecting the Solar Power Projects with the substation system as specified in the RfS document. Metering shall be done at this interconnection point where the power is injected into. For interconnection with grid and metering, the SPD shall abide by the relevant and applicable regulations, Grid Code notified by the CERC or and Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended and revised from time to time, or orders passed there under by the appropriate commission or CEA.</p> <p>All charges and losses related to Transmission of power from project up to Delivery Point (including but not limited to open access, transmission, wheeling, Unscheduled Interchange, Scheduling, Reactive power, RLDC/SLDC charges etc.) as notified by the competent authority / regulator shall be borne by the SPD and beyond the Delivery Point all charges and losses as notified by the competent authority/ regulator from time to time shall be borne by the Zonal Railway.</p>

“Dispute”	shall mean any dispute or difference of any kind between Zonal Railway and the SPD, in connection with or arising out of this Agreement including but not limited to any issue on the interpretation and scope of the terms of this Agreement as provided in Article 16 of this Agreement;
"Due Date"	Due Date shall mean the seventy-fifth (75th) day after a Monthly Bill (including all the relevant documents) or a Supplementary Bill is received in hard copy and duly acknowledged by the Zonal Railway or, if such day is not a Business Day, the immediately succeeding Business Day, by which date such Monthly Bill or a Supplementary Bill is payable by the Zonal Railway;
“Effective Date”	shall have the meaning ascribed thereto in Article 2.1 of this Agreement;
“Electricity Laws”	shall mean the Electricity Act, 2003 and the rules and regulations made there under from time to time along with amendments thereto and replacements thereof and any other Law pertaining to electricity including regulations framed by the Appropriate Commission;
"Energy Accounts"	shall mean the regional energy accounts/state energy accounts as specified in the Grid Code issued by the appropriate agency for each Month (as per their prescribed methodology), including the revisions and amendments thereof or where such regional energy accounts/ state energy accounts are not issued, Joint Meter Reading (JMR) will be considered; Zonal Railway reserves the right to choose from any of the above, i.e. (REA)/SEA/JMR/Appropriate Nodal Agency, based on the acceptance of the same by the Appropriate Commission for RPO obligation;
“Event of Default”	shall mean the events as defined in Article 13 of this Agreement;
“Expiry Date”	Shall mean the date occurring as on twenty-five (25) years from the Scheduled Commissioning Date subject to that the supply of power shall be limited for a period of 25 years from the Scheduled Commissioning Date unless extended by the Parties as per this Agreement;
“Financial Closure”	shall mean compliance with the requirements under Article 3.1 of this Agreement;
“Financing Agreements”	shall mean the agreements pursuant to which the SPD has sought financing for the Power Project including the loan agreements, security documents, notes, indentures, security agreements, RBI Letter of Mandate and other documents, as may be amended, modified, or replaced from time to time, but without in anyway increasing the liabilities of Zonal Railway;
"Force Majeure" or “Force Majeure Event”	shall have the meaning ascribed thereto in Article 11 of this Agreement;

“Guidelines: or “Scheme”	shall mean the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects issued by the Ministry of Power on 3 rd August 2017, including subsequent amendments and clarifications;
"Grid Code" / “IEGC” or “State Grid Code”	shall mean the Grid Code specified by the CERC under Clause (h) of Sub-section (1) of Section 79 of the Electricity Act, as amended from time to time, and/or the State Grid Code as specified by the concerned State Commission, referred under Clause (h) of Sub-section (1) of Section 86 of the Electricity Act 2003, as applicable;
“Indian Governmental Instrumentality”	shall mean the Government of India, Governments of state (s)..... [Insert the name(s) of the state(s) in India, where the Power Project, Zonal Railway and SPD are located] and any ministry, department, board, authority, agency, corporation, commission under the direct or indirect control of Government of India or the above state Government(s) or both, any political sub-division of any of them; including any court or Appropriate Commission(s) or tribunal or judicial or quasi-judicial body in India;
“Insurances”	shall mean the insurance cover to be obtained and maintained by the SPD in accordance with Article 8 of this Agreement;
"Interconnection Facilities"	shall mean the facilities on SPD’s side of the Delivery Point for scheduling, transmitting and metering the electrical output in accordance with this Agreement and which shall include, without limitation, all other transmission lines and associated equipment, transformers, relay and switching equipment and protective devices, safety equipment and RTU, Data Transfer and Acquisition facilities for transmitting data subject to Article 7, the Metering System required for supply of power as per the terms of this Agreement;
“Invoice” or “Bill”	shall mean either a Monthly Bill / Supplementary Bill or a Monthly Invoice/ Supplementary Invoice raised by any of the Parties;
“Joint Control”	Shall mean a situation where none of the promoter share holders has at least 51 % shareholding in the paid up share capital and voting rights in the SPD, and the control is exercised jointly;
“Late Payment Surcharge”	shall have the meaning ascribed thereto in Article 10.3.3 of this Agreement;
"Law"	Shall mean in relation to this Agreement, all laws including Electricity Laws in force in India and any statute, ordinance, regulation, notification or code, rule, or any interpretation of any of them by an Indian Governmental Instrumentality and having force of law and shall further include without limitation all applicable rules, regulations, orders, notifications by an Indian Governmental Instrumentality pursuant to or under any of them and shall include without limitation all rules, regulations, decisions and orders of the Appropriate Commissions;

“Letter of Credit” or “L/C”	shall have the meaning ascribed thereto in Article 10.4 of this Agreement;
“MNRE”	shall mean the Ministry of New and Renewable Energy, Government of India;
"Month"	shall mean a period of thirty (30) days from (and excluding) the date of the event, where applicable, else a calendar month;
"Party" and "Parties"	Shall have the meaning ascribed thereto in the recital to this Agreement;
“Payment on Order Instrument” or “POI”	shall mean the irrevocable unconditional letter of undertaking issued by either of the three institutions, viz., (i) Indian Renewable Energy Development Agency Limited (IREDA), or (ii) Power Finance Corporation Limited, or (iii) REC Limited, as an alternative to submission of Performance Bank Guarantee by the SPD to Zonal Railway in the form attached hereto as Schedule 2;
“Payment Security Mechanism”	shall have the meaning ascribed thereto in Article 10.4 of this Agreement;
“Performance Bank Guarantee” or “PBG”	shall mean the irrevocable unconditional bank guarantee, submitted by the SPD to Zonal Railway in the form attached hereto as Schedule 1;
“Pooling Substation/ Pooling Point”	means a point where more than one Solar power project may connect to a common transmission system. Multiple projects can be connected to a pooling substation from where common transmission system shall be constructed and maintained by the SPD(s) to get connected to the Delivery Point. The voltage level for such common line shall be the voltage level as indicated in “Interconnection Point” under this Agreement. Further, the metering of the pooled power shall be done at the injection point, i.e. the CTU/STU substation. However, the voltage level of transmission system of individual projects up to the pooling substation may be at 33 kV and above. Sub-meters shall be installed at the pooling substation for metering and forecasting and scheduling of individual projects. The losses in the common transmission system up to the injection point shall be apportioned to the individual Projects for the purpose of billing. In such case, it shall be responsibility of the SPD to obtain and furnish the meter reading jointly by the SPD and any competent authority (State Government or Central Government) (if applicable).

“Power Project” or “Project”	shall mean the Solar power generation facility of Contracted Capacity of[Insert capacity as per LoA] MW, located at..... [Insert name of the place] in....[Insert name of the District and State] having a separate control system, metering and a single or multiple point(s) of injection into the grid at Delivery/Interconnection/Metering point at CTU/STU substation or in case of sharing of transmission lines, by separate injection at pooling point. This includes all units and auxiliaries such as water supply, treatment or storage facilities; bay/s for transmission system in the switchyard, dedicated transmission line up to the Delivery Point and all the other assets, buildings/structures, equipment, plant and machinery, facilities and related assets required for the efficient and economic operation of the power generation facility; whether completed or at any stage of development and construction or intended to be developed and Constructed for the purpose of supply of power as per this Agreement;
“Preliminary Default Notice”	shall have the meaning ascribed thereto in Article 13 of this Agreement;
"Prudent Utility Practices"	shall mean the practices, methods and standards that are generally accepted internationally from time to time by electric utilities for the purpose of ensuring the safe, efficient and economic design, construction, commissioning, operation and maintenance of power generation equipment and which practices, methods and standards shall be adjusted as necessary, to take account of: a) operation and maintenance guidelines recommended by the manufacturers of the plant and equipment to be incorporated in the Power Project; b) the requirements of Indian Law; and the physical conditions at the site of the Power Project
“RBI”	shall mean the Reserve Bank of India;
“Rebate”	shall have the same meaning as ascribed thereto in Article 10.3.4 of this Agreement;
"RLDC"	shall mean the relevant Regional Load Dispatch Centre established under Sub-section (1) of Section 27 of the Electricity Act, 2003;
“RPC”	Shall mean the relevant Regional Power Committee established by the Government of India for a specific region in accordance with the Electricity Act, 2003 for facilitating integrated operation of the power system in that region;
"Rupees", "Rs.", “₹”	shall mean Indian rupees, the lawful currency of India;
“Scheduled Commissioning Date” or “SCD” of the Project	shall mean[Insert Date that is eighteen (18) months from the Effective Date of this Agreement as applicable];

“SERC”	shall mean the Electricity Regulatory Commission of any State in India constituted under Section-82 of the Electricity Act, 2003 or its successors, and includes a Joint Commission constituted under Subsection (1) of Section 83 of the Electricity Act 2003;
“SLDC”	shall mean the centre established under Sub-section (1) of Section 31 of the Electricity Act 2003, relevant for the State(s) where the solar project and / or Delivery Point is located;
“SLDC Charges”	shall mean the charges levied by the SLDC of the state wherein the Solar Power Project is located;
“Solar Photovoltaic Project” or “Solar PV Project”	shall mean the solar photovoltaic power project that uses sunlight for conversion into electricity and that is being set up by the SPD to provide Solar Power to Zonal Railway as per the terms and conditions of this Agreement;
“Solar Power”	shall mean power generated from the Solar Photovoltaic Power Project;
“State Transmission Utility” or “STU”	shall mean the Board or the Government company notified by the respective State Government under Sub-section (1) of Section 39 of the Act;
"Tariff" or “Applicable Tariff”	Shall have the same meaning as provided for in Article 9 of this Agreement;
"Tariff Payment"	shall mean the payments to be made under Monthly Bills as referred to in Article 10 and the relevant Supplementary Bills;
“Termination Notice”	shall mean the notice given by either Parties for termination of this Agreement in accordance with Article 13 of this Agreement;
"Term of Agreement"	shall have the meaning ascribed thereto in Article 2 of this Agreement;
“Unit/ Part Commissioning”	Subject to the compliance of conditions / procedure as detailed under Schedule-2 of this Agreement, Unit/Part Commissioning shall mean the Solar PV Capacity (AC MW) to be commissioned as per provisions of this Agreement and RfS document. Part commissioning shall be applicable for packages having more than one land parcels. Each land parcels in a package can be commissioned independently. No partial commissioning of land parcel in a package is allowed.
“Unit Commercial Operation Date (UCOD)”	shall mean the date of issuance of commissioning certificate for the respective part(s) of the Power Project subsequent to the demonstration of the compliance of commissioning as per this Agreement and witnessed by the Committee duly constituted and also start of injection and scheduling power from the Power Project to the Delivery Point and availability / installation of all necessary arrangements / equipment including RTU for scheduling of power generated from the Project and transmission of data to the concerned authority as per applicable regulation;
"Week"	shall mean a calendar week commencing from 00:00 hours of Monday, and ending at 24:00 hours of the following Sunday;

“Railway”	means Zonal Railway / Nodal Railway (NR) / PUs / Railway Training Institutes.
“Railway Traction System”	shall mean 220 kV/ 132 kV/ 110 kV / 66 kV / 25 kV/ Railway transmission line / Traction Sub Station (TSS) / Sectioning & Paralleling Post (SP) / Sub-Sectioning & Paralleling Post (SSP) / Over Head Equipment (OHE).
“REMCL”	shall mean REMC Limited. (formerly Railway Energy Management Company Limited)
“Railway Electrical Engineer”	means PCEE’s authorized representative.
“Zonal Railways/Railway/Nodal Railways”	shall mean Zonal Railway / Nodal Railway.
“ZR”	shall mean Zonal Railways (including workshops), Production Units (PUs) & Railway Training Institutes. Words “ZR” and “Railways” have been used interchangeably in RFS& PPA.
“Project Capacity”	shall mean the Contracted Capacity of the Project at the point of injection on which the Power Purchase Agreement has been signed.

1.2 Interpretation

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

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

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

ARTICLE 2: TERM OF AGREEMENT

2.1 Effective Date

2.1.1 This Agreement shall come into effect from (Enter the date of the issuance of Authorisation Letter to the SPD for authorizing Use of Land by SPD, or any further date, as applicable) and such date shall be referred to as the Effective Date.

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

2.1.3 Not used

2.1.4 Not used

2.2 Term of Agreement

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

2.2.2 The SPD shall ensure transfer of all project elements to Nodal Railway after 25 years i.e. on expiry of PPA at no cost and free from any encumbrances and liability. The Railway in the twenty sixth year (26th) may examine the need of up-gradation of the system or renovation and modernization of the existing system depending on technological options available at that time and SPD with mutual consent may carry out the same (on chargeable basis). Any maintenance thereafter would be ensured by Railways/ Nodal Railway. Alternatively, Nodal Railway may advise SPD after 25 years i.e. on expiry of PPA to dismantle the solar plant at his own cost and handover the land in clear position to REMC Ltd. within 180 days from the Expiry. Energy bills which are to be paid to the SPD for last 06 months of the PPA period (25 years) and outstanding amount if any shall be kept by Nodal Railway as security for dismantling of the Solar Plant. The amount shall be paid after satisfactory completion of dismantling of Solar Plant by the SPD.

In case Nodal Railway has to dismantle the plant then that cost will be deducted from the above security amount.

2.3 Early Termination

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

2.4 Survival

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

ARTICLE 3: CONDITIONS SUBSEQUENT

3.1 Satisfaction of conditions subsequent by the SPD

The SPD agrees and undertakes to duly perform and complete all of the following activities including Financial Closure at the SPD's own cost and risk by.....[Enter the date as on 12 Months after the Effective Date], unless such completion is affected by any Force Majeure event, or for the activities specifically waived in writing by Zonal Railway:

- a) The SPD shall make Project financing arrangements its Projects(s) and shall provide necessary certificates to Zonal Railway in this regard;

The SPD shall submit to Zonal Railway the relevant documents as stated above, complying with the Conditions Subsequent, within twelve (12) months from the Effective Date.

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

3.2.1 In case of a failure to submit the documents as above, Zonal Railway shall encash the Performance Bank Guarantee/ Payment on Order Instrument submitted by the SPD, terminate this Agreement and remove the Project from the list of the selected Projects by giving a notice to the SPD in writing of at least seven (7) days, unless the delay (subject to the conditions that SPD has made / is making all possible efforts) or caused due to a Force Majeure. Unless extended as per provisions of Article 3.2.1 (i) of this Agreement in writing, the termination of the Agreement shall take effect upon the expiry of the 7th day of the above notice.

- (i) An extension, without any impact on the Scheduled Commissioning Date, can however be considered, on the sole request of SPD, on payment of Rs.1000/-per day per MW to Zonal Railway. Such extension charges are required to be paid Zonal Railway in advance, for the period of extension required. In case of any delay in depositing this extension charge, SPD shall pay an interest on this extension charge for the days lapsed beyond due date of Financial Closure @ SBI-MCLR (1Year). In case such delay in making payment of the extension charges to REMC Ltd. is more than 7 days, the termination of the Agreement shall take effect upon the expiry of such 7th day. This amount will go into the Payment Security Mechanism. In case of the SPD meeting the requirements of conditions subsequent and financial closure before the last date of such proposed delay period, the remaining amount deposited by the SPD shall be returned Zonal Railway without interest. This extension will not have any impact on the Scheduled Commissioning

Date. Any extension charges paid so by the SPD, shall be returned to the SPD without any interest on achievement of successful commissioning within the Scheduled Commissioning Date, on pro-rata basis, based on the project capacity commissioned as on Scheduled Commissioned Date. However, in case the SPD fails to commission the Contract Capacity by Scheduled Commissioning Date, the extension charges deposited by the SPD shall not be refunded by Zonal Railway.

3.2.2 For the avoidance of doubt, it is clarified that this Article shall survive the termination of this Agreement.

3.2.3 In case of inability of the SPD to fulfil the conditions specified in Article 3.1 due to any Force Majeure event, the time period for fulfillment of the Conditions Subsequent and Financial Closure as mentioned in Article 3.1, shall be extended for the period of such Force Majeure event.

3.2.4 Provided that due to the provisions of this Article 3.2.1, any increase in the time period for completion of conditions subsequent and financial closure mentioned under Article 3.1, shall also lead to an equal extension in the Scheduled Commissioning Date.

3.3 Performance Bank Guarantee / Payment on Order Instrument

3.3.1 The Performance Bank Guarantee (PBG)/ Payment on Order Instrument (POI) having validity from the date of submission of PBG / POI until Twenty-Seven (27) months from the Effective Date and of Rs. 8 Lakh/MW to be furnished under this Agreement shall be for guaranteeing the commencement of the supply of power up to the Contracted Capacity within the time specified in this Agreement as per format provided in Schedule 1.

3.3.2 The failure on the part of the SPD to furnish and maintain the Performance Bank Guarantee / Payment on Order Instrument shall be a material breach of the term of this Agreement on the part of the SPD.

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

3.4 Return of Performance Bank Guarantee / Payment on Order Instrument

3.4.1 Subject to Article 3.3, Zonal Railway shall return / release the Performance Bank Guarantee / Payment on Order Instrument immediately after the successful Commissioning of the Project after taking into account any liquidated damages/ penalties due to delays in commissioning as per provisions stipulated in this Agreement.

3.4.2 The return / release of the Performance Bank Guarantee / Payment on Order Instrument shall be without prejudice to other rights of Zonal Railway under this Agreement.

ARTICLE 4: CONSTRUCTION & DEVELOPMENT OF THE PROJECT

4.1 SPD's Obligations

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

- a) The SPD shall be solely responsible and make arrangements for associated infrastructure for development of the Project and for Connectivity with the CTU/STU System for confirming the evacuation of power by the Scheduled Commissioning date and all clearances related thereto;
- b) 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. Zonal Railway shall have no obligation to recommend to any department/agency or the Government for the grant/permission for the Solar Power Project. The Solar Power Developer shall, on his own, obtain permissions/ sanctions from Government authorities, if any required for establishing the Project. Any steps that may be taken by Zonal Railway in regard to grant of such consents and permits or any other approval to be taken by the SPD shall only be a voluntary endeavour with no intention of being bound by any legal or binding obligation.
- c) 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.
- d) the commencement of supply of power up to the Contracted Capacity to Zonal Railway no later than the Scheduled Commissioning Date and continuance of the supply of power throughout the term of the Agreement;
- e) connecting the Power Project switchyard with the Interconnection Facilities at the Delivery Point; The SPD shall make adequate arrangements to connect the Power Project switchyard with the Interconnection Facilities at Interconnection/ Metering / Delivery Point.
- f) owning the Power Project throughout the Term of Agreement free and clear of encumbrances, except those expressly permitted under Article 15;
- g) maintaining its controlling shareholding (controlling shareholding shall mean more than 50% of the voting rights and paid-up share capital) prevalent at the time of signing of PPA up to a period of one(1) years after Commercial Operation Date of the Project in line with Section III, Clause 18 of the RfS; However transfer of controlling shareholding within the same Group

Companies will be allowed with the permission of REMC LTD. after COD subject to the condition that the management control remains within the same Group Companies;

- h) Not used.
- i) fulfilling all obligations undertaken by the SPD under this Agreement.
- j) Executing transmission service agreement with STU/CTU, for evacuation of the Contracted Capacity and maintaining it throughout the term of the Agreement.
- k) The SPD shall be responsible to for directly coordinating and dealing with the Zonal Railway, Load Dispatch Centres, Regional Power Committees (if applicable), and other authorities in all respects in regard to declaration of availability, scheduling and dispatch of Solar Power and due compliance with deviation and settlement mechanism and the applicable Grid code/State/Central Regulations as applicable.
- l) The SPD shall fulfil the technical requirements according to criteria mentioned under Annexure II–Technical requirement for Grid Connected Solar PV Power Projects under Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar Power Projects, issued by Ministry of Power, vide resolution no.23/27/2017-R&R dated 03.08.2017 including subsequent amendments and clarifications. The cells and modules used in the Project shall be sourced only from the models and manufacturers included in the “Approved List of Models and Manufacturers” as published by MNRE and updated as on the date of commissioning of the Project. The DCR requirement of solar modules and ‘make in India’ requirements for complete solar power project as detailed in the RFS shall also be binding on the SPD.
- m) Further, the Project being implemented under this Agreement shall fulfil the criteria as per Central Electricity Authority (Technical Standards for Connectivity to the Grid) Regulations, 2007, and subsequent amendments and clarifications thereof,
- n) As part of scheduling of power from the Project, the SPD will be required to punch-in their respective schedules and subsequent revisions, by themselves, at the SLDC/RLDCs (if applicable) concerned for the corridor of power flow, as per the Regulations in force, under intimation to Zonal Railway. Zonal Railway may facilitate in identification of any discrepancy and assist the SPD for its early rectification without any liability on Zonal Railway. The SPD shall be

solely responsible for discrepancy identification and its rectification to avoid any rejection/less payment of invoices.

4.1.2 Railway Obligations:

- (i) For harnessing solar power by Railways for their own use, by installing solar power units, through developer mode, grant permission to the selected developer for use of Railway land (if applicable), with utilization of complete energy by Railways through long term Power Purchase Agreement (for the unit cost of solar power) for a period of 25 years. The developer to be selected through tariff based competitive bidding.
- (ii) upon written request from the SPD, and subject to the SPD complying with Applicable Laws, provide reasonable support and assistance to the SPD in procuring Approvals required from any Government Instrumentality for implementation and operation of the Project;
- (iii) allow the SPD to operate the Project as a must-run generating facility, subject to Law and the provisions of this Agreement;
- (iv) make regular monthly payments to the SPD for the solar power generated and sold to Railways at the tariff decided under this agreement;
- (v) provide (upon written request from the SPD,) reasonable assistance to the SPD in obtaining access to all necessary infrastructure facilities and utilities favourable to the SPD than those generally available to Railways receiving substantially equivalent services;
- (vi) Ensure that no barriers are erected or placed on or about the Project by any Government Agency/ Instrumentality or any persons claiming through or under it, except for reasons of Safety Requirements, Emergency, national security, or law and order or train running and operations.
- (vii) assist the SPD in procuring police assistance for removal of trespassers and security on or at the Project;
- (viii) support, cooperate with and facilitate the Project in the implementation and operation of the Project in accordance with the provisions of this Agreement;
- (ix) Appoint/ Nominate [Chief] Electrical Inspector to conduct pre commissioning test to ensure and certify the Safety Requirements. The safety certificate to this effect will be issued with the approval of EIG;

4.1.3 Project Monitoring

- (i) During the Construction Period, the SPD shall, no later than seven (7) days after the close of each month, furnish to Railways and the Railway Electrical Engineer a monthly report on progress of the Development Works and shall promptly give such other relevant information as may be required by Railways and/or the Railway Electrical Engineer.
- (ii) SPD to provide General Arrangement Drawing including land utilization plan and

power evacuation scheme to Nodal Railway for approval. Nodal Railway to approve the drawings within 30 days of submission by SPD. If there is delay in approval of drawings by Railways, Railways to extend the schedule commissioning date accordingly.

4.2 Information regarding Interconnection Facilities

- 4.2.1 The SPD shall be required to obtain all information from the STU/CTU/concerned authority with regard to the Interconnection Facilities as is reasonably necessary to enable it to design, install and operate all interconnection plant and apparatus on the SPD's side of the Delivery Point to enable delivery of electricity at the Delivery Point. The transmission of power up to the point of interconnection where the metering is done for energy accounting shall be the responsibility of the SPD at its own cost.
- 4.2.2 Penalties, fines and charges imposed by the STU/ CTU as under any statute or regulation in relation to delay in commissioning of Project shall be payable by the SPD to the extent the delay is attributable to the SPD.
- 4.2.3 The responsibility of getting connectivity with the transmission system up to the Interconnection Point, will lie with the SPD. The transmission of power up to the point of interconnection where the metering is done for energy accounting shall be the responsibility of the SPD at his own cost. The maintenance of Transmission system up to the designated point as per the applicable terms and conditions shall be the responsibility of the SPD. All costs and charges including but not limited to the wheeling charges and losses up to and including at the Interconnection Point associated with this arrangement will also be borne by the SPD.
- 4.2.4 Incase of Pooling substation, losses in the transmission line shall be apportioned among the SPDs who share such a Pooling arrangement and duly signed by all SPDs, based on their monthly generation.
- 4.2.5 The arrangement of connectivity shall be made by the SPD through a dedicated transmission line. The entire cost of transmission including cost of construction of line, any other charges, losses etc. from the Project up to the Interconnection Point will be borne by the SPD. In case of non-availability of Grid and Transmission System during Term of this Agreement, for reasons not attributable to the SPD, provisions of Article 4.10 shall be applicable.
- 4.2.6 Not Used.

4.3 Purchase and sale of Contracted Capacity

4.3.1 Subject to the terms and conditions of this Agreement, the SPD undertakes to sell to Zonal Railway and Zonal Railway undertakes to pay Tariff for all the energy supplied at the Delivery Point corresponding to the Contracted Capacity.

4.3.2 Not used.

4.4 Right to Contracted Capacity & Energy

4.4.1 The contracted capacity of the project can be revised based on selected SPD site analysis within 3 months from the effective date. Such proposal shall be submitted by the SPD along with the supporting analysis report to the respective nodal/zonal railways and the same shall be accepted by the nodal/zonal railways within 1 months from the date of submission of the documents. REMC Ltd shall facilitate the process.

The SPD will declare the CUF of the Project and will be allowed to revise the same once within first year after COD of the full project capacity. Zonal Railway, in any Contract Year except for the first year of operation, shall not be obliged to purchase any additional energy from the SPD beyond Million kWh (MU). Subsequent

to commissioning of the Project, if for any Contract Year, it is found that the SPD has not been able to supply minimum energy of Million kWh (MU) till the end of 10 years from the SCD and Million kWh (MU) for the rest of the Term of the Agreement, on account of reasons solely attributable to the SPD, the non-compliance by SPD shall make the SPD liable to pay the compensation. For the first year of operation, the above limits shall be considered on pro-rata basis. In case of part commissioning of the Project, the above limits shall be considered on pro-rata basis till the commissioning of full capacity of the Project. The lower limit will, however be relaxable by Buyer to the extent of grid non-availability for evacuation which is beyond the control of the SPD (as certified by the SLDC/RLDC).

This compensation shall be applied to the amount of shortfall in generation during the Contract Year. This compensation shall be applied to the amount of shortfall in generation during the Contract Year. The amount of compensation shall be equal to the amount payable (including RECs) by the Zonal Railway towards non-meeting of RPO, which shall ensure that the Zonal Railway is offset for all potential costs associated with low generation and supply of power under the PPA, subject to a minimum of 25% (twenty-five per cent) of the cost of this shortfall in

energy terms, calculated at PPA tariff.

The reference to the compensation for shortfall and the amount being equal to the compensation payable by Zonal Railway for not meeting RPO is only a measure of damage. It shall not be construed that the compensation is payable by SPD only if the Zonal Railways are required to pay compensation for such not meeting of RPO or that the Zonal Railway or the SPD shall be required to prove or establish such payment of compensation for not meeting the RPO.

SPD shall agree that the methodology specified herein above for calculation of liquidated damages payable by the SPD for shortfall in generation is a genuine and accurate pre- estimation of the actual loss that will be suffered by Zonal Railway. SPD shall further acknowledge that a breach of any of the obligations contained herein result in injuries and that the amount of the liquidated damages or the method of calculating the liquidated damages specified in this document is a genuine and reasonable pre-estimate of the damages that may be suffered by the Zonal Railway in each case specified under this Agreement.

However, this compensation shall not be applicable in events of Force Majeure identified under the PPA with Zonal Railway, affecting supply of solar power by the SPD.

- 4.4.2 Any excess generation over and above as per Article 4.4.1, may be purchased by Zonal Railway at the tariff in term of as per Article 9, provided the Zonal Railway consents to purchase such power. While the SPD would be free to install the DC solar field as per its design of required output, including its requirement of auxiliary consumption and to reconfigure and/or repower the Project from time to time during the term of the PPA, it will not be allowed to sell any excess power to any other entity other than Zonal Railway. The SPD shall be required to intimate Zonal Railway about the proposed excess quantum of energy likely to be generated from the Project within any Contract Year, at least 30 days prior to the proposed date of commencement of excess generation. Zonal Railway shall be required to intimate its approval/refusal to the SPD, for buying such excess generation not later than 15 days of receiving the above offer from the SPD.

However, in case at any point of time, the peak of capacity reached is higher than the contracted capacity and causes disturbance in the system at the point where power is injected, the SPD will have to forego the excess generation and reduce the output to the rated capacity and shall also have to pay the penalty/charges (if

applicable) as per applicable regulations / requirements / guidelines of CERC / SERC /SLDC or any other competent agency.

Any energy produced and flowing into the grid before Scheduled Commissioning Date shall not be at the cost of Zonal Railway. Zonal Railway may agree to buy such power at a tariff as agreed to between SPD and the Zonal Railway as its own discretion.

4.5 Extensions of Time

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

- a) any Zonal Railway Event of Default; or
- b) Force Majeure Events affecting Zonal Railway, or
- c) Force Majeure Events affecting the SPD,

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

4.5.2 Synchronization Certificate is required to be submitted prior to commissioning of the Project. Subsequent to grant of connectivity & after completion of Project in all aspects, in case there is a delay in grant of Synchronization/Charging Permission by the CTU/STU or there is a delay in readiness of the CTU/STU substation at the Delivery Point, including readiness of the power evacuation and transmission infrastructure of the CTU/STU's network (at & beyond interconnection point, disabling transmission & evacuation of power from Project) until SCD of the Project, and following are established by the SPD:

- i) The SPD has complied with the complete application formalities as per Clause 7.10, Section III of the RfS,
- ii) The SPD has adhered to the applicable procedure in this regard as notified by the SERC/STU/CTU.

Under such condition, the delay in grant of Synchronization/charging permission and/or delay in readiness of the CTU/STU substation at the Delivery Point, including readiness of the power evacuation and transmission infrastructure of the CTU/STU's network will be considered as factors beyond the reasonable control of the SPD and SCD for such Projects shall be revised as the date as on 30th day subsequent to the readiness of the Delivery Point and power evacuation infrastructure. Decision on requisite extension on account of the above factor shall be taken by Railways on case to case basis after examining the issue.

4.5.3 In case of extension due to reasons specified in Article 4.5.1(b) and (c), and if such Force Majeure Event continues even after a maximum period of 180 days from the date of the Force Majeure Notice, any of the Parties may choose to terminate the Agreement as per the provisions of Article 11.10. In case neither party terminates

the Agreement under this clause, the Agreement shall stand terminated on the expiry of twelve (12) months of the continuation of the Force Majeure event unless the parties mutually agree to extend the Agreement for the further period.

4.5.4 If the Parties have not agreed, within thirty (30) days after the affected Party's performance has ceased to be affected by the relevant circumstance, on the time period by which the Scheduled Commissioning Date or the Expiry Date should be deferred, any Party may raise the Dispute to be resolved in accordance with Article 16.

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

4.5.6 Not Used.

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

4.6 Liquidated Damages not amounting to penalty for delay in Commissioning

4.6.1 The Project shall be fully commissioned within the Scheduled Commissioning Date as defined in this Agreement. If the SPD is unable to commission the Project by the Scheduled Commissioning Date for the reasons other than those specified in Article

4.5.1 and 4.5.2, the SPD shall pay to Zonal Railway, damages for the delay in such commissioning and making the Contracted Capacity available for dispatch by the Scheduled Commissioning Date as per the following:

- (a) Delay beyond the Scheduled Commissioning Date upto (& including) the date as on 6 months after the Scheduled Commissioning Date, as part of the liquidated damages, the total PBG/ POI amount for the Project shall be encashed on per day basis and proportionate to the balance capacity not commissioned. For example, in case of a Project of 100 MW capacity, if commissioning of 40 MW capacity is delayed by 18 days beyond the SCD, then the liquidated damages shall be: $\text{PBG/POI amount} \times (40/100) \times (18/180)$. For the purpose of calculation of liquidated damages, 'month' shall be considered consisting of 30 days.

4.6.2 The maximum time period allowed for commissioning of the full Project Capacity with encashment of Performance Bank Guarantee/ Payment on Order Instrument

shall be limited to 6 months after the SCD of the Project. In case, the Commissioning of the Project is delayed beyond 6 months after the SCD, it shall be considered as an SPDEvent of Default and provisions of Article 13 shall apply and the Contracted Capacity shall stand reduced / amended to the Project Capacity Commissioned within 6 months after the SCD and the PPA for the balance Capacity will stand terminated and shall be reduced from the project capacity.

- 4.6.3 The SPD further acknowledges that the amount of the liquidated damages fixed is genuine and reasonable pre-estimate of the damages that may be suffered by Zonal Railway as specified under this Agreement.

4.7 Acceptance/Performance Test

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

4.8 Third Party Verification

- 4.8.1 The SPD shall be further required to provide entry to the site of the Power Project free of all encumbrances at all times during the Term of the Agreement to Zonal Railway for inspection and verification of the works being carried out by the SPD at the site of the Power Project.
- 4.8.2 Zonal Railway may verify the construction works/operation of the Power Project being carried out by the SPD and if it is found that the construction works/operation of the Power Project is not as per the Prudent Utility Practices, it may seek clarifications from SPD.

4.9 Breach of Obligations

- 4.9.1 Not used.

4.10 Generation compensation for Off-take constraints

- 4.10.1 Generation Compensation in offtake constraint due to Transmission Infrastructure not complete/ready (Transmission constraint): After the Scheduled Commissioning Date, subject to the submission of documentary evidences from the Competent Authority, if the plant is ready in all respects including the dedicated transmission line to be established by the SPD to connect to the grid but the necessary power evacuation/ transmission infrastructure is not ready, for reasons not attributable to the SPD, leading to offtake constraint, the generation compensation from the Zonal Railway shall be restricted to the following and there shall be no other claim,

directly or indirectly against Zonal Railway:

Transmission Constraint	Provision for Generation Compensation
If the Project is ready but the necessary power evacuation/transmission infrastructure is not ready, leading to offtake constraint	<p>a. The normative CUF of 19% (nineteen per cent) or committed CUF, whichever is lower, for the period of grid unavailability, shall be taken for the purpose of calculation of generation loss. Corresponding to this generation loss, the excess generation by the SPD in the succeeding 3 (three) Contract Years, shall be procured by Zonal Railway at the PPA tariff so as to offset this loss.</p> <p>b. If the transmission delay is directly attributable to the organization building the transmission network and some penalty is imposed on him, then a part of that penalty may be utilized for compensating the generation loss.</p>

However, it is clarified that if the Project is ready for commissioning prior to the Scheduled Commissioning Date, but the offtake is constrained because of inadequate/incomplete power evacuation infrastructure, no compensation shall be permissible.

4.10.2 Generation Compensation in offtake constraints due to Grid Unavailability: During the operation of the plant, there can be some periods where the Project can generate power but due to temporary transmission unavailability, the power is not evacuated, for reasons not attributable to the Solar Power Developer. In such cases, subject to the submission of documentary evidences from the competent authority, the generation compensation from Zonal Railway shall be restricted to the following and there shall be no other claim, directly or indirectly against Zonal Railway:

Duration of Grid unavailability	Provision for Generation Compensation
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Grid unavailability in a Contract Year: (only period from 8 am to 6 pm to be counted), for Grid unavailability beyond 50 hours in a Contract Year:	<p><i>Generation Loss = [(Average Generation per hour during the Contract Year) × (number of hours of grid unavailability during the Contract Year)]</i></p> <p>Where, Average Generation per hour during the Contract Year (kWh) = Total generation in the Contract Year (kWh) ÷ Total hours of generation in the Contract Year.</p>
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The excess generation by the SPD equal to this generation loss shall be procured at the PPA tariff so as to offset this loss in the succeeding 3 (three) Contract Years.

4.10.3 Offtake constraints due to Backdown: The Solar Power Developer and Zonal Railway shall follow the forecasting and scheduling process as per the regulations in this regard by the Appropriate Commission. The Government of India, as per Clause 5.2(u) of the Indian Electricity Grid Code (IEGC), encourages a status of “must-run” to solar power projects. Accordingly, no solar power plant, duly commissioned, should be directed to back down by a Discom/ Load Dispatch Centre (LDC). In the eventuality of backdown, except for the cases where the Backdown is on account of events like consideration of grid security or safety of any equipment or personnel or other such conditions, subject to the submission of documentary evidences from the competent authority, the SPD shall be eligible for a minimum generation compensation, from Zonal Railway, restricted to the following and there shall be no other claim, directly or indirectly against Zonal Railway:

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

The SPD shall not be eligible for any compensation in case the Back down is on account of events like consideration of grid security or safety of any equipment or

personnel or other such conditions. The Generation Compensation shall be paid as part of the energy bill for the successive month after receipt of Energy Accounts (REA)/SEA/JMR/Appropriate Nodal Agency.

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

4.11 Make in India Compliance

4.11.1 “Domestic Content Requirement (DCR)”, shall mean use of both solar photovoltaic (SPV) Cells and modules manufactured domestically as per specifications and testing requirements fixed by MNRE. For the Projects to be implemented under this bid document, both the solar cells and modules used in the Solar Power Projects must be made in India. In case of crystalline Silicon technology, all process steps and quality control measures involved in the manufacture of the Solar Cells and Modules starting from wafers till final assembly of the Solar Cells into Modules shall be performed at the works of PV manufacturers in India.

4.11.2 The Project should be Make in India Compliant. As regards solar photovoltaic (SPV) Cells and Modules, the DCR requirement as stipulated in Cl No. 4.11.1 of Definition shall be applicable whereas for other items like Inverter/Converter, cable etc. the MNRE OM no.: F.No.146/57/2018-P&C dtd. 11.12.2018 for Make in India in Renewable Energy sector read in conjunction with Ministry of Commerce and Industry (Department for Promotion of Industry and Internal Trade) vide their order no.: P-45021/2/2017-PP (BE-II) dated 04.06.2020 or its latest amendments before tender opening shall be applicable.

4.11.3 “ The cells and modules used in the project shall be sourced only from the models and manufactureres included in the 'Approved List of Models and Manufactureres' as published by MNRE and updated as on the date of commissioning of the project".

4.11.4 This project should be implemented with Domestic Content Requirement (DCR) and should be Make in India compliant. The SPD shall provide certificates from module manufacturer and cell manufacturer regarding meeting of DCR norms as per the proforma provided at Annexure-XI A & Annexure-XI B of RFQ.

ARTICLE 5: SYNCHRONISATION, COMMISSIONING AND COMMERCIAL OPERATION

5.1 Synchronization, Commissioning and Commercial Operation

- 5.1.1 The SPD shall give the concerned RLDC/SLDC and Zonal Railway at least sixty (60) days' advanced preliminary written notice and at least thirty (30) days' advanced final written notice, of the date on which it intends to synchronize the Power Project to the Grid System.
- 5.1.2 Subject to Article 5.1.1, the Power Project may be synchronized by the SPD to the Grid System when it meets all the connection conditions prescribed in applicable Grid Code then in effect and other wise meets all other Indian legal requirements for synchronization to the Grid System.
- 5.1.3 The synchronization equipment and all necessary arrangements/ equipment including RTU for scheduling of power generated from the Project and transmission of data to the concerned authority as per applicable regulation shall be installed by the SPD at its generation facility of the Power Project at its own cost. The SPD shall synchronize its system with the Grid System only after the approval of synchronization scheme is granted by the head of the concerned substation/Grid System and checking/verification is made by the concerned authorities of the Grid System.
- 5.1.4 The SPD 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 Zonal Railway. In addition, the SPD will inject in-firm power to grid time to time to carry out operational/ functional test prior to commercial operation. For avoidance of doubt, it is clarified that Synchronization / Connectivity of the Project with the grid shall not to be considered as Commissioning of the Project.
- 5.1.5 The SPD shall commission the Project as detailed in "Schedule 3: Commissioning Procedure" within eighteen (18) Months of the Effective Date. Declaration of COD /UCOD shall only be done subject to the demonstration of the compliances as per Schedule-3 and subsequent upon the successful visit by the Commissioning Committee.
- 5.1.6 There can be part Commissioning of independent land parcels in a package if a package is consisting of more than one land parcels having different connectivity points. Part commissioning of the package shall mean that all equipment corresponding to the part capacity have been installed and commissioned and

corresponding energy has flown into the grid. Part commissioning shall be applicable for packages having more than one land parcels. Each land parcels in a package can be commissioned independently. No partial commissioning of land parcel in a package is allowed.

- 5.1.7 The Parties agree that for the purpose of commencement of the supply of electricity by SPD to Zonal Railway, liquidated damages for delay etc., the Scheduled Commissioning Date or extended Scheduled Commissioning Date as defined in this Agreement shall be the relevant date.

5.2 Early Commissioning

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

If solar Project of a land parcel within a package/land parcels having same connectivity within a package/complete package is commissioned before Scheduled COD, Zonal Railways as its discretion may agree to purchase the generation at PPA Tariff.

In case of early commissioning SPD to give 2 months prior notice to Railways. Early part commissioning of the Project will be allowed solely at the risk and cost of the SPD, and Railways shall purchase the energy from such early commissioned Project at the 75% (seventy-five percent) of the PPA tariff. However, in case the entire capacity is commissioned prior to SCD, Railways may purchase the generation at PPA Tariff. Such intimation, such early commissioned capacity shall be deemed to have been rejected by Zonal Railway. UCOD/COD of the Project under the PPA will be the date on which the commissioning certificate is issued upon successful commissioning of the full capacity of the Project.

ARTICLE 6:DISPATCH AND SCHEDULING

6.1 Dispatch and Scheduling

6.1.1 The SPD shall be required to schedule its power as per the applicable regulations / requirements / guidelines of CERC / SERC /SLDC / RLDC or any other competent agency and same being recognized by the SLDC or any other competent authority/ agency as per applicable regulation/ law / direction and maintain compliance to the applicable Codes/ Grid Code requirements and directions, if any, as specified by concerned SLDC/RLDC from time to time. Any deviation from the Schedule will attract the provisions of applicable regulation / guidelines / directions and any financial implication on account of this shall be on the account of the SPD.

6.1.2 The SPD shall be responsible for directly coordinating and dealing with the Zonal Railway, State Load Dispatch Centre's, Regional Power Committees, and other authorities in all respects in regard to declaration of availability, scheduling and dispatch of Solar Power and due compliance with deviation and settlement mechanism and the applicable Grid code Regulations, acknowledging that the SPD and Zonal Railway are the Grid connected entities.

6.1.3 The SPD shall be responsible for any deviation from scheduling and for any resultant liabilities on account of charges for deviation as per applicable regulations. UI charges on this account shall be directly paid by the SPD.

6.1.4 Auxiliary power consumption will be treated as per the concerned Central/State regulations as applicable.

6.1.5 Not Used.

ARTICLE 7:METERING

7.1 Meters

- 7.1.1 For installation of Meters, Meter testing, Meter calibration and Meter reading and all matters incidental thereto, the SPD and Zonal Railway shall follow and be bound by the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, the Grid Code, as amended and revised from time to time.
- 7.1.2 The SPD shall bear all costs pertaining to installation, testing, calibration, maintenance, renewal and repair of meters at SPD's side of Delivery Point.
- 7.1.3 In addition to ensuring compliance of the applicable codes, the SPD shall install Main & Check meters at the Delivery Point, along with Stand-by meter(s) as per the applicable Central/State regulations.
- 7.1.4 In case of pooling of multiple Projects, power from multiple Projects can be pooled at a Pooling Substation prior to the Delivery point and the combined power can be fed at Delivery point through a common transmission line from the Pooling Substation. In such cases, ABT compliant sub-meters as per relevant regulation/approval are also to be setup at pooling substation for individual projects in addition to the meters at Delivery Point as described in clause 7.1.3.

7.2 Reporting of Metered Data and Parameters

- 7.2.1 The grid connected Solar PV power plants will install necessary equipment for regular monitoring of solar irradiance (including GHI, DHI and solar radiation in the module plane), ambient air temperature, wind speed and other weather parameters and simultaneously for monitoring of the electric power (both DC and AC) generated from the Project.
- 7.2.2 Online arrangement would have to be made by the SPD for submission of above data regularly for the entire period of this Power Purchase Agreement to the SLDC, Zonal Railway or concerned agency as per applicable regulation / directions.
- 7.2.3 Reports on above parameters on monthly basis (or as required by regulation / guidelines) shall be submitted by the SPD to Railways or concerned agency for entire period of PPA.

ARTICLE 8: INSURANCES

8.1 Insurance

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

8.2 Application of Insurance Proceeds

- 8.2.1 In case of the Project not being implemented through Financing Agreement(s), save as expressly provided in this Agreement or the Insurances, the proceeds of any insurance claim made due to loss or damage to the Power Project or any part of the Power Project shall be first applied to reinstatement, replacement or renewal of such loss or damage.

In case of the Project being financed through Financing Agreement(s), save as expressly provided in this Agreement or the Insurances, the proceeds of any insurance claim made due to loss or damage to the Power Project or any part of the Power Project shall be applied as per such Financing Agreements.

- 8.2.2 If a Force Majeure Event renders the Power Project no longer economically and technically viable and the insurers under the Insurances make payment on a “total loss” or equivalent basis, Zonal Railway shall have claim on such proceeds of such Insurance limited to outstanding dues of Zonal Railway against SPD.

8.3 Effect on liability of Nodal/ Zonal Railway

- 8.3.1 Notwithstanding any liability or obligation that may arise under this Agreement, any loss, damage, liability, payment, obligation or expense which is insured or not or for which the SPD can claim compensation, under any Insurance shall not be charged to or payable by Zonal Railway. It is for the SPD to ensure that appropriate insurance coverage is taken for payment by the insurer for the entire loss and there is no under insurance or short adjustment etc.

ARTICLE 9: APPLICABLE TARIFF

9.1 The SPD shall be entitled to receive the Tariff of Rs...../ kWh [Insert the Tariff discovered through the bidding process conducted by REMC Ltd.], fixed for the entire term of this Agreement, with effect from the SCD, for the power sold by SPD to Zonal Railway as reflected in the Energy Accounts.

9.2 Pursuant to Article 5.1.8 in case of early part-commissioning, till SCD, subject to the consent for such purchase by the Zonal Railway, Zonal Railway may purchase the generation@_____ [Insert the value as per 75% (seventy-five per cent) of the Applicable Tariff]. However, in case the entire Project capacity is commissioned prior to SCD, Zonal Railway may purchase energy supplied till SCD at _____ [Insert Applicable Tariff]/kWh. In the cases of early full commissioning of the Project, the Applicable Tariff for the commissioned Project shall be _____ [Insert Tariff]/kWh from and including the SCD.

9.3 Any excess generation over and above energy specified in Article 4.4.1, will be purchased by Nodal railways at @____ [Insert the value as per 75% (seventy-five per cent) of the Applicable Tariff], provided the Zonal Railway consents for purchase of such excess generation. Any energy produced and flowing into the grid before SCD shall not be at the cost of Zonal Railway. However, the SPD will not be allowed to sell energy generated prior to SCD or excess energy during any Contract Year to any other entity other than Zonal Railway.

ARTICLE 10: BILLING AND PAYMENT

10.1 General

Pursuant to Article 4.1.1 (h), REMC LTD. shall set up a payment security fund for Solar Power Projects in order to ensure timely payment. This fund will have a corpus to cover 3 months' payment.

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

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

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

10.1.1 Not Used.

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

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

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

10.2 Delivery and Content of Monthly Bills/Supplementary Bills

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

Each Monthly Bill shall include all charges as per this Agreement for the energy supplied for the relevant Month based on Energy Accounts issued by SLDC or any other competent authority which shall be binding on both the Parties. The Monthly Bill amount shall be the product of the energy as per Energy Accounts and the

Applicable Tariff. Energy drawn from the grid will be regulated as per the applicable Central/State regulations.

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

10.3.1 Subject to the provision of Article 10.3.4, Zonal Railways shall pay the amount payable under the Monthly Bill/Supplementary Bill by the Due Date to such account of the SPD, as shall have been previously notified by the SPD as below.

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

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

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

10.3.3 Late Payment Surcharge

In the event of delay in payment of a Monthly Bill by Zonal Railways beyond Due Date, Railways shall pay interest for the period of delay, calculated at a rate equal to MCLR +2 % on the amounts payable. the Late Payment Surcharge interest shall be claimed by the SPD through the Supplementary Bill.

10.3.4 Subject to the Article 9 of this Agreement, in the event of early Commissioning of the Project and subject to acceptance by Zonal Railways, the payment for the power fed to the grid may be accounted from the date of UCOD, and SPD would

be allowed to raise Bills against such power as per Article 10.2.1, subject to the conditions as stipulated in Article 9. However, payment against the 1st such bill raised by the SPD, will be made subject to acceptance of the bill by the Discom.

10.3.5 Rebate

For payment of any Bill on or before Due Date, the following Rebate shall be paid by the SPD to Zonal Railways in the following manner.

- a) A Rebate of 1.5% shall be payable to the Zonal Railways for the payments made within a period of 10 (ten) days of the presentation of hard copy of Bill.
- b) Any payments made after ten (10) days of the date of presentation of Bill through hard copy up to 45 days from the date of presentation of Bill through hard copy shall be allowed a rebate of 1%.
- c) For the above purpose, the date of presentation of Bill shall be the next Business Day of delivery of the physical copy of the Bill at Zonal Railways.
- d) No Rebate shall be payable on the Bills raised on account of Change in Law (except in case of annuity tariff model being implemented, where rebate will be applicable) relating to taxes, duties, cess etc. and on Supplementary Bill.

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

10.4 Payment Security Mechanism

- a. Procurer shall set up and maintain in favour of the SPD, in respect of payment of the Monthly Bills and/or Supplementary Bills, a Monthly unconditional, revolving and irrevocable RBI Letter of Mandate, substantially in the format set out in Appendix-5, which may be drawn upon by the SPD in accordance with this Article.
- b. Not later than 15 (fifteen) Days prior to the date of issue of the Commissioning Certificate, the Procurer through RBI at New Delhi shall open a Letter of Mandate in favour of the SPD, to be made operative from a date, which is at least 15 (fifteen) Days prior to the Due Date of its first Monthly Bill under this Agreement. The Letter of Mandate shall have a term of 12 (twelve) Months and shall be renewed as explained below, for an amount equal to:
 - i) for the first 12 (twelve) Month period commencing from the date of issuance of the Commissioning Certificate equal to (the energy quantum equivalent to the Guaranteed Energy Offtake x 2/12) x the Tariff; and
 - ii) for each subsequent 12 (twelve) Month period, equal to 1.25 times the average 2 (two) Month's Tariff Payments billing of the preceding 12 (twelve) Month period; Provided that the SPD shall not draw upon the RBI Letter of Mandate prior to the Due Date of the relevant Monthly Bill and/or Supplementary Bill, and shall not make more than one drawl in a Month.
 - iii) In the last year of operation, Letter of Mandate may be issued only for 6 months to ensure that any dues of the Procurer are recovered from the pending bills.

Provided that if at any time, the RBI Letter of Mandate amount falls short of the amount specified in

Article 10.4(b) the Procurer shall restore such shortfall within 15 (fifteen) Days of the shortfall.

(c) Procurer shall cause the RBI issuing the Letter of Mandate to communicate to the SPD, in writing regarding establishing of such irrevocable RBI Letter of Mandate. The Procurer shall ensure that the RBI Letter of Mandate shall be renewed not later than 30 (thirty) Days prior to its expiry.

(d) All costs relating to opening and maintaining the RBI Letter of Mandate shall be borne by the Procurer.

(e) If any Monthly Bill or Supplementary Bill or part thereof is not paid on or before the Due Date, then the SPD may draw upon the RBI Letter of Mandate, and accordingly the bank shall pay without any reference or instructions from the

Procurer, the unpaid amount under such Monthly Bill and/or Supplementary Bill or part thereof, if applicable, as the case may be, by presenting to the bank, the following documents:

- i) a copy of the Monthly Bill and/or Supplementary Bill which has remained unpaid to SPD; and
- ii) a certificate from the SPD to the effect that the bill at item (i) above, or specified part thereof, is prepared and issued in accordance with the Agreement and has remained unpaid beyond the Due Date.

10.5 Disputed Bill

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

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

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

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

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

providing:

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

10.5.5 Upon receipt of the Bill Disagreement Notice by the Zonal Railway under Article 10.5.4, authorized representative(s) or a director of the board of directors/member of board of the Zonal Railway and SPD shall meet and make best endeavours to amicably resolve such dispute within fifteen (15) days of receipt of the Bill Disagreement Notice.

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

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

10.6 Quarterly and Annual Reconciliation

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

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

Article 16.

10.7 Payment of Supplementary Bill

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

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

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

10.7.2 Zonal Railway will remit all amounts due under a Supplementary Bill raised by the SPD to the SPD's Designated Account by the Due Date, except open access charges, RLDC or scheduling charges and transmission charges (if applicable). For Supplementary Bill on account of adjustment required by energy account and payments under Article 4.10, Rebate as applicable to Monthly Bills pursuant to Article 10.3.5 shall equally apply. Payment under Article 10.7.1 will be made after realization of the same from the Zonal Railways. No late payment surcharge will be applicable other than that on the monthly energy payment and associated debit and credit note.

10.7.3 Not Used.

ARTICLE 11: FORCE MAJEURE

11.1 Definition of Force Majeure

A 'Force Majeure' (FM) would mean one or more of the following acts, events or circumstances or a combination of acts, events or circumstances or the consequence(s) thereof, that wholly or partly prevents or unavoidably delays the performance by the Party (the Affected Party) of its obligations under the relevant Power Purchase Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the Affected Party and could not have been avoided if the Affected Party had taken reasonable care or complied with Prudent Utility Practices.

An Affected Party means Zonal Railway or the SPD whose performance has been affected by an event of Force Majeure.

11.2 Categorization of Force Majeure Events:

11.2.1 Natural Force Majeure Event

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

11.2.2 Non-Natural Force Majeure Event

- e) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action;
- f) nation/state-wide strike, lockout, boycotts or other industrial disputes which are not directly and solely attributable to the actions of the Affected Party, but does not include strike or labour unrest limited to the Affected Party or its contractors;
- g) nationalisation or any compulsory acquisition by any Indian Governmental Instrumentality/ State Government in national interest or expropriation of any material Project assets or rights of the SPD, as a result of which the SPD or its shareholders are deprived (wholly or partly) of their rights or entitlements under the Power Purchase Agreement. Provided that such action does not constitute remedies or sanctions lawfully exercised by the Procurer or any other Government Authority as a result of any breach of any of the Applicable Laws or the Applicable Permits by the SPD or the SPD related parties;
- h) action of a Government Authority having Material Adverse Effect including but not limited to Change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Article 12 of this Agreement; any unlawful or unauthorised or without jurisdiction revocation of, or delay in, or refusal, or failure to renew or grant without valid cause, any Permits of the SPD or any of the clearance, licence, authorization to be obtained by the contractors to perform their respective obligations under the relevant PPA and/or the Project Documents; provided that such delay, modification, denial, refusal or revocation did not result from the SPD's or any contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such Permits or clearance, licence, authorization, as the case may be.

11.3 Force Majeure Exclusions

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

- a. Unavailability, late delivery, or changes in cost of the plant, machinery, equipment, materials, spare parts or consumables for the Power Project;
- b. Delay in the performance of any contractor, sub-contractor or their agents;

- c. Non-performance resulting from normal wear and tear typically experienced in power generation materials and equipment;
- d. Strikes at the facilities of the Affected Party;
- e. Insufficiency of finances or funds or the agreement becoming onerous to perform; and
- f. Non-performance caused by, or connected with, the Affected Party's:
 - i. Negligent or intentional acts, errors or omissions;
 - ii. Failure to comply with an Indian Law; or
 - iii. Breach of, or default under this Agreement.

11.4 Notification of Force Majeure Event

- 11.4.1 The Affected Party shall give notice to the other Party of any event of Force Majeure as soon as reasonably practicable, but not later than seven (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 an event of Force Majeure results in a breakdown of communications rendering it unreasonable to give notice within the applicable time limit specified herein, then the Party claiming Force Majeure shall give such notice as soon as reasonably practicable after reinstatement of communications, but not later than one (1) day after such reinstatement.
- 11.4.2 Provided that such notice shall be a pre-condition to the Affected Party's entitlement to claim relief under the PPA. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed. The Affected Party shall give the other Party regular (and not less than weekly) reports on the progress of those remedial measures and such other information as the other Party may reasonably request about the Force Majeure Event.
- 11.4.3 The Affected Party shall give notice to the other Party of (i) the cessation of the relevant event of Force Majeure; and (ii) the cessation of the effects of such event of Force Majeure on the performance of its rights or obligations under the PPA, as soon as practicable after becoming aware of each of these cessations.

11.5 Performance Excused

- 11.5.1 The Affected Party, to the extent rendered unable to perform its obligations or part of the obligation thereof under the PPA as a consequence of the Force Majeure Event, shall be excused from performance of the obligations, provided that the period shall not exceed 180 (one hundred and eighty) Days from the date of issuance of the FM Notice. The Parties may mutually agree to extend the period for which performance is excused due to a Force Majeure Event.
- 11.5.2 For the time period, as mutually agreed by the Parties, during which the performance shall be excused, the generator shall be entitled for a day to day extension of the period provided for Financial Closure or Scheduled Commissioning Period or the PPA period, as the case maybe.
- 11.5.3 Provided always that a Party shall be excused from performance only to the extent reasonably warranted by the Force Majeure Event.
- 11.5.4 Provided further that, nothing shall absolve the Affected Party from any payment obligations accrued prior to the occurrence of the underlying Force Majeure Event.

11.6 No Liability for Other Losses

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

11.7 Resumption of Performance

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

11.8 Duty to Perform and Duty to Mitigate

To the extent not prevented by a Force Majeure Event pursuant to Article 11.2, the Affected Party shall continue to perform its obligations pursuant to this Agreement, in line with provisions of Article 11.5. The Affected Party shall use its reasonable efforts to mitigate the effect of any Force Majeure Event as soon as practicable.

11.9 Available Relief for a Force Majeure Event

Subject to this Article 11:

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

11.10 Termination Due to Force Majeure Event

11.10.1 Termination due to Natural Force Majeure Event

- a) If, prior to the completion of the 180 (one hundred and eighty) Day period (or any extended period) for a Natural Force Majeure Event commencing from the date of issuance of the Force Majeure Notice, the Parties are of the reasonable view that a Natural Force Majeure Event is likely to continue beyond such 180 (one hundred and eighty) Day period or any extended period agreed in pursuance of Article 11.5 (Performance Excused); or that it is uneconomic or impractical to restore the affected Unit, then the Parties may mutually decide to terminate the PPA, and the termination shall take effect from the date on which such decision is taken.

- b) Without prejudice to the provisions of Article 11.10.1.(a) above, the Affected Party shall, after the expiry of the period of 180 (one hundred and eighty) Days or any other mutually extended period, be entitled to forthwith terminate the PPA in its sole discretion by issuing a notice to that effect.
- c) On termination of the PPA pursuant to Article 11.10.1(b):
 - i. no Termination Compensation shall be payable to the SPD.
 - ii. the SPD shall be eligible for undisputed payments under outstanding Monthly Bill(s), before the occurrence of Force Majeure Event.

11.10.2 Termination due to Non-Natural Force Majeure Event

- d) Upon occurrence of a Non-Natural Force Majeure Event, the SPD shall, at its discretion, have the right to terminate the PPA forthwith after the completion of the period of 180 (one hundred and eighty) Days from the date of the Force Majeure Notice.
- e) On termination of the PPA pursuant to Article 11.10.2(a):
 - i. Zonal Railway shall pay to the SPD, 'Force Majeure Termination Compensation' equivalent to the amount of the Debt Due and the 110% (one hundred and ten per cent) of the Adjusted Equity, as defined in the PPA, and takeover the Project assets.
 - ii. the SPD shall be eligible for undisputed payments under outstanding Monthly Bill(s), before the occurrence of Force Majeure Event.

ARTICLE 12: CHANGE IN LAW

12.1 Definitions

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

The term “Project Cost” used in this Article shall mean “the cost incurred by the SPD towards supply and services only for the Project concerned, up to the Actual Commissioning Date of the last part capacity or Scheduled Commissioning Date/extended Scheduled Commissioning Date, whichever is earlier.”

12.1.1 In this Article 12, the term Change in Law shall refer to the occurrence of any of the following events pertaining to this project only after [Insert last date of bid submission] including (i) the enactment of any new law; or (ii) an amendment, modification or repeal of an existing law; or (iii) the requirement to obtain a new consent, permit or license; or (iv) any modification to the prevailing conditions prescribed for obtaining an consent, permit or license, not owing to any default of the Solar Power Developer; or (v) any change in the rates of any Taxes including any duties and cess or introduction of any new tax made applicable for setting up the solar power project and supply of power from the Solar Power project by the SPD which have a direct effect on the Project.

However, Change in Law shall not include (i) any change in taxes on corporate income or (ii) any change in any with holding tax on income or dividends distributed to the shareholders of the SPD.

12.1.2 In the event of occurrence of any of events as provided under Article 12.1.1 which results in any increase/ decrease in the Project Cost (i.e. cost incurred by the SPD towards supply and services only for the Project concerned, upto Scheduled Commissioning Date or extended Scheduled Commissioning Date, as the case may be), the SPD/Zonal Railway shall be entitled for compensation by the other party, as the case may be.

12.1.3 However, in case of change in rates of safeguard duty, GST and basic customs duty after[Insertlastdateofbidsubmission]andresultinginchangeinProjectCost,then such change will be treated as ‘Change in Law’ and the quantum of compensation payment on account of change in rates of such duties and shall be provided to the affected party by the other party as per Article 12.2.3.

12.2 Relief for Change in Law

12.2.1 Save and except as provided under Article 12.1.3, the aggrieved Party shall be required to approach the Hon'ble CERC for seeking approval of Change in Law.

12.2.2 The decision of the Hon'ble CERC to acknowledge a Change in Law and the date from which it will become effective, provide relief for the same, shall be final and governing on SPD and Zonal Railway.

12.2.3 In case of Change in Law as approved by the Appropriate Commission pursuant to Article 12.2.1 or as provided under Article 12.1.3, the SPD/ Zonal Railway (as the case may be) shall be entitled for relief as follows:

Every net increase/decrease of Rs.1 lakh per MW in the Project Cost (i.e. cost incurred by the SPD for the supply and services in the Project concerned, up to Schedule Commissioning Date or extended Schedule Commissioning Date, for reasons other than those wherein such extension is on account of payment of liquidated damages, penalty or any other charges, as the case may be), shall be liable for corresponding increase/decrease of an amount equal to Rs 0.005 /kWh.

Any such change shall be considered up to three digits after the decimal point, and remaining digits, if any, shall be ignored.

For e.g. in case the change in tariff payable is calculated as Rs. 0.14678/kWh, it shall be modified as Rs. 0.146/kWh.

12.2.4 In case Change in Law results in delay in commissioning or supply of power, where cause and effect between these two can be clearly established, the Zonal Railway may provide suitable time-extension in Scheduled Commissioning Date or Scheduled Date of Commencement of Supply of Power, as the case may be.

12.2.5 In the event of any decrease in the project cost by the SPD or any income to the SPD on account of any of the events as indicated above, SPD shall pass on the benefit of such reduction at a rate as provided in Article 12.2.3 to Zonal Railway. In the event of the SPD failing to comply with the above requirement, Zonal Railway shall make such deductions in the monthly tariff payments on immediate basis. Further, at the time of raising of 1st Monthly Tariff Payment Bill, SPD shall be required to provide a statutory auditor certificate supported by Board Resolution in regard to implications (loss/ gain) arising out of Article 12.

12.3 Notification of Change in Law

12.3.1 If the SPD is affected by Change in Law in accordance with Article 12 and wishes to claim a Change in Law under this Article, it shall give notice to the Zonal

Railway of such Change in Law as soon as reasonably practicable (but no later than 60 days from the date of occurrence of such Change in Law).

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

ARTICLE 13: EVENTS OF DEFAULT AND TERMINATION

13.1 SPD Event of Default

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

- (i) The failure to commence supply of power to Zonal Railway up to the Contracted Capacity, by the end of the period specified in Article 4, or failure to continue supply of Contracted Capacity to Zonal Railway after Commercial Operation Date throughout the term of this Agreement, or
if
 - a) the SPD assigns, mortgages or charges or purports to assign, mortgage or charge any of its assets or rights related to the Power Project in contravention of the provisions of this Agreement; or
 - b) the SPD transfers or novates any of its rights and / or obligations under this agreement, in a manner contrary to the provisions of this Agreement; except where such transfer
 - is in pursuance of a Law; and does not affect the ability of the transferee to perform, and such transferee has the financial capability to perform, its obligations under this Agreement or
 - is to a transferee who assumes such obligations under this Agreement and the Agreement remains effective with respect to the transferee;
- (ii) if (a) the SPD becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of thirty (30) days, or (b) any winding up or bankruptcy or insolvency order is passed against the SPD, or (c) the SPD goes into liquidation or dissolution or has a receiver or any similar officer appointed over all or substantially all of its assets or official liquidator is appointed to manage its affairs, pursuant to Law, provided that a dissolution or liquidation of the SPD will not be a SPD Event of Default if such dissolution or liquidation is for the purpose of a merger, consolidation or reorganization and where the resulting company retains creditworthiness similar to the SPD and expressly assumes all obligations of the SPD under this Agreement and is in a position to perform them; or
- (iii) the SPD repudiates this Agreement and does not rectify such breach within a period of thirty (30) days from a notice from Zonal Railway in this regard; or

- (iv) except where due to any Zonal Railway's failure to comply with its material obligations, the SPD is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the SPD within thirty (30) days of receipt of first notice in this regard given by Zonal Railway.
- (v) change in controlling shareholding before the specified time frame as mentioned in Article 4.1.1 of this Agreement; or
- (vi) occurrence of any other event which is specified in this Agreement to be a material breach/ default of the SPD.
- (vii) except where due to any Zonal Railway's failure to comply with its material obligations, the SPD is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the SPD within thirty (30) days of receipt of first notice in this regard given by Zonal Railway.

13.2 Zonal Railway Event of Default

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

- (i) Zonal Railway fails to pay (with respect to a Monthly Bill or a Supplementary Bill), subject to Article 10.5, for a period of ninety (90) days after the Due Date and the SPD is unable to recover the amount outstanding to the SPD through the RBI Letter of Mandate,
- (ii) Zonal Railway repudiates this Agreement and does not rectify such breach even within a period of sixty (60) days from a notice from the SPD in this regard; or
- (iii) except where due to any SPD's failure to comply with its obligations, Zonal Railway is in material breach of any of its obligations pursuant to this Agreement, and such material breach is not rectified by Zonal Railway within sixty (60) days of receipt of notice in this regard from the SPD to Zonal Railway; or if
 - Zonal Railway becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of sixty (60) days, or

- any winding up or bankruptcy or insolvency order is passed against Zonal Railway, or
 - Zonal Railway goes into liquidation or dissolution or a receiver or any similar officer is appointed over all or substantially all of its assets or official liquidator is appointed to manage its affairs, pursuant to Law, provided that it shall not constitute a Zonal Railway Event of Default, where such dissolution or liquidation of Zonal Railway is for the purpose of a merger, consolidation or reorganization and where the resulting entity has the financial standing to perform its obligations under this Agreement and has creditworthiness similar to Zonal Railway and expressly assumes all obligations of Zonal Railway and is in a position to perform them; or;
- (iv) Not used
- (v) Occurrence of any other event which is specified in this Agreement to be a material breach or default of Zonal Railway.

13.3 Procedure for cases of SPD Event of Default

- 13.3.1 Upon the occurrence and continuation of any SPD Event of Default under Article 13.1, Zonal Railway shall have the right to deliver to the SPD, with a copy to the representative of the lenders to the SPD with whom the SPD has executed the Financing Agreements, a notice stating its intention to terminate this Agreement (Zonal Railway Preliminary Default Notice), which shall specify in reasonable detail, the circumstances giving rise to the issue of such notice.
- 13.3.2 Following the issue of a Zonal Railway Preliminary Default Notice, the Consultation Period of ninety (90) days or such longer period as the Parties may agree, shall apply and it shall be the responsibility of the Parties to discuss as to what steps shall be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.
- 13.3.3 During the Consultation Period, the Parties shall continue to perform their respective obligations under this Agreement.
- 13.3.4 Within a period of seven (7) days following the expiry of the Consultation Period unless the Parties shall have otherwise agreed to the contrary or the SPD Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, Zonal Railway may terminate this Agreement by giving a

written Termination Notice of sixty (60) days to the SPD.

13.3.5 Subject to the terms of this Agreement, upon occurrence of a SPD Event of Default under this Agreement, the SPD shall be liable to pay to Zonal Railway, liquidated damages, as provided in Article 4.6 of the PPA for failure to commission within stipulated time and Article 4.4.1 for failure to supply power in terms of the PPA. For other cases, the SPD shall be liable pay to Zonal Railway, damages, equivalent to 6 (six) months, or balance PPA period whichever is less, of charges for its contracted capacity. Zonal Railway shall have the right to recover the said damages by way of forfeiture of bank guarantee/ Payment on Order Instrument, if any, without prejudice to resorting to any other legal course or remedy. In addition to the levy of damages as aforesaid, the lenders in concurrence with the Zonal Railway, may exercise their rights, if any, under Financing Agreements, to seek substitution of the SPD by a selectee for the residual period of the Agreement, for the purpose of securing the payments of the total debt amount from the SPD and performing the obligations of the SPD. However, in the event the lenders are unable to substitute the defaulting SPD within the stipulated period, Zonal Railway may terminate the PPA and the Zonal Railway may acquire the Project assets for an amount equivalent to 90% of the Debt Due or less as mutually agreed, failing which, the lenders may exercise their mortgage rights and liquidate the Project assets. Provided that any substitution under this Agreement can only be made with the prior consent of Zonal Railway including the condition that the selectee meets the eligibility requirements of Request for Selection (RfS) issued by REMC Ltd. and accepts the terms and conditions of this Agreement.

13.3.6 The lenders in concurrence with the Zonal Railway, may seek to exercise right of substitution under Article 13.3.5 by an amendment or novation of the PPA in favour of the selectee. The SPD shall cooperate with Zonal Railway to carry out such substitution and shall have the duty and obligation to continue to operate the Power Project in accordance with this PPA till such time as the substitution is finalized. 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, an amount of Rs. 10 Lakh per Project+ 18% GST per transaction as facilitation fee (non- refundable) shall be deposited by the SPD to Zonal Railway.

13.3.7 In the event the lenders are unable to substitute the defaulting SPD within the stipulated period, Zonal Railway may terminate the PPA and may 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.

13.4 Procedure for cases of Nodal/Zonal Railway Event of Default

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

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

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

13.4.4 After a period of two hundred ten (210) days following the expiry of the Consultation Period and unless the Parties shall have otherwise agreed to the contrary or Zonal Railway Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, then the SPD may terminate the PPA and require Zonal Railway to take over the Project assets by making a payment of the termination compensation equivalent to the amount of the Debt Due and 110% (one hundred and ten percent) of the Adjusted Equity less Insurance Cover, if any, In the event of termination of PPA, any damages or charges payable to the STU/ CTU, for the connectivity of the plant, shall be borne by the Zonal Railway.

13.5 Not Used.

ARTICLE 14: LIABILITY AND INDEMNIFICATION

14.1 Indemnity

14.1.1 The SPD shall indemnify, defend and hold Zonal Railway harmless against:

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

14.1.2 Zonal Railway shall indemnify, defend and hold the SPD harmless against:

- a) any and all third-party claims against the SPD, for any loss of or damage to property of such third party, or death or injury to such third party, arising out of a breach by Zonal Railways of any of their obligations under this Agreement; and
- b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest ('Indemnifiable Losses') actually suffered or incurred by the SPD from third party claims arising by reason of a breach by Zonal Railway) of any of its obligations.

14.2 Procedure for claiming Indemnity

14.2.1 Third party claims

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

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

Provided however that, if:

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

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

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

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

14.3 Indemnifiable Losses

- 14.3.1 Where an Indemnified Party is entitled to Indemnifiable Losses from the Indemnifying Party pursuant to Article 14.1.1(b) or 14.1.2 (b), the Indemnified Party shall promptly notify the Indemnifying Party of the Indemnifiable Losses actually incurred by the Indemnified Party. The Indemnifiable Losses shall be reimbursed by the Indemnifying Party within thirty (30) days of receipt of the notice seeking Indemnifiable Losses by the Indemnified Party. In case of non payment of such losses after a valid notice under this Article 14.3, such event shall constitute a payment default under Article 13.

14.4 Limitation on Liability

- 14.4.1 Except as expressly provided in this Agreement, neither the SPD nor Zonal Railway nor its/ their respective officers, directors, agents, employees or affiliates (or their officers, directors, agents or employees), shall be liable or responsible to the other Party or its affiliates, officers, directors, agents, employees, successors or permitted assigns or their respective insurers for incidental, in director consequential damages, connected with or resulting from performance or non-performance of this Agreement, or anything done in connection herewith, including

claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under this Agreement), any increased expense of, reduction in or loss of power generation or equipment used therefore, irrespective of whether such claims are based upon breach of warranty, tort (including negligence, whether of Zonal Railway, the SPD or others), strict liability, contract, breach of statutory duty, operation of law or otherwise.

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

14.5 Not used

14.5.1 Not used

14.5.2 Not used.

14.6 Duty to Mitigate

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

ARTICLE 15: ASSIGNMENTS AND CHARGES

15.1 Assignments

This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. This Agreement shall not be assigned by any Party, except to the Project Lenders or Lender's Representative as security for their debt under the Financing Agreements, other than by mutual consent between the Parties to be evidenced in writing. Such assignment shall be agreed to by Zonal Railway subject to the compliance of provisions contained in this Agreement and more specifically to the provisions of Article 4.1.1 of this Agreement. In no case, such assignment shall be permissible prior to the declaration of COD.

Provided that, Zonal Railway shall permit assignment of any of SPD's rights and obligations under this Agreement in favour of the lenders to the SPD, if required under the Financing Agreements.

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

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

Provided further that any successor(s) or permitted assign(s) identified after mutual agreement between the Parties may be required to execute a new agreement on the same terms and conditions as are included in this Agreement. An amount of Rs. 5 Lakh per Transaction as Facilitation Fee (non-refundable) shall be deposited by the SPD to Zonal Railway. Provided further that, such consent shall not be withheld by the SPD if Zonal Railway seeks to transfer to any affiliate all of its rights and obligations under this Agreement.

In the event of Change in Shareholding/Substitution of Promoters triggered by the Financial Institutions leading to signing of fresh PPA with a New Entity, an amount of Rs. 10 Lakh per Transaction as Facilitation Fee (non-refundable) shall be deposited by the SPD to Zonal Railway.

15.2 Permitted Charges

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

ARTICLE 16: GOVERNING LAW AND DISPUTE RESOLUTION

16.1 Governing Law

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

16.2 Amicable Settlement and Dispute Resolution

16.2.1 Either Party is entitled to raise any claim, dispute or difference of whatever nature arising under, out of or in connection with this Agreement (“Dispute”) by giving a written notice (Dispute Notice) to the other Party, which shall contain:

- i. a description of the Dispute.
- ii. the grounds for such Dispute; and
- iii. all written material in support of its claim.

16.2.2 The other Party shall, within thirty (30) days of issue of Dispute Notice issued under Article 16.2.1(i), furnish:

- i. counter-claim and defenses, if any, regarding the Dispute; and
- ii. all written material in support of its defenses and counter-claim.

16.2.3 Within thirty (30) days of issue of Dispute Notice by any Party pursuant to Article 16

- (i) if the other Party does not furnish any counter claim or defence under Article 16
- (ii) or thirty (30) days from the date of furnishing counter claims or defence by the other Party, both the Parties to the Dispute shall meet to settle such Dispute amicably. If the Parties fail to resolve the Dispute amicably within thirty (30) days from the later of the dates mentioned in this Article 16.2.1.
- (iii) the Dispute shall be referred for dispute resolution in accordance with Article 16.3.

16.3 Dispute Resolution

16.3.1 Dispute Resolution by the Appropriate Commission

- i) Where any Dispute or differences arises in relation to this agreement of any nature whatsoever including the construction, interpretation or implementation of the provisions of this agreement as well as claim made by any Party for any change in or determination of the Tariff or any matter related to Tariff or claims made by any Party which partly or wholly relate to any change in the Tariff or determination of any of such claims could result in change in the Tariff, and relates to any matter agreed to be referred to the Appropriate Commission, shall be submitted to adjudication by the Appropriate Commission. Appeal against the decisions of the Appropriate Commission shall be made only as per the provisions of the Electricity Act, 2003, as amended from time to time.
- ii) Zonal Railway shall be entitled to co-opt the lenders (if any) as a supporting party in such proceedings before the Appropriate Commission.

16.3.2 Not used.

16.4 Parties to Perform Obligations

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

ARTICLE 17: MISCELLANEOUS PROVISIONS

17.1 Amendment

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

17.2 Third Party Beneficiaries

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

17.3 Waiver

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

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

17.4 Confidentiality

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

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

17.5 Severability

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

17.6 Notices

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

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

Address :

Attention :

Email :

Fax. No. :

Telephone No.:

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

(i) Address :

Attention

Email :

Fax.No. :

Telephone No. :

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

the recipient refused to acknowledge the receipt of the notice despite efforts of the postal authorities.

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

17.7 Language

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

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

17.8 Restriction of Shareholders / Owners' Liability

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

17.9 Taxes and Duties

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

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

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

17.10 Independent Entity

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

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

17.11 Compliance with Law

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

17.12 Not used.

17.13 Breach of Obligations

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

17.14 Order of priority in application

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

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

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

For and on behalf of For and on behalf of
[Zonal Railway]

[SPD]

Name, Designation and Address
Signature with seal

Name, Designation and Address
Signature with seal

Witness:

1.

2.

Witness:

1.

2.

ARTICLE 18: Land Use Authorization

- 18.1 The SPD will be authorised to construct foundation and erect solar plant as per scope of work defined in Bid document on vacant Railway Land parcel (s) by issue of Authorisation letter without any charge. Format of Authorization Letter is at Appendix-4 of PPA
- 18.2 Draft Authorization Letter as per Appendix-4 to be issued by REMC Ltd. to selected SPD within 30 days of signing of PPA between SPD and Nodal Railway.
- 18.3 Subject to and in accordance with the provisions of this Agreement, the Railway hereby grants, obliges and entitles (as the case may be) the SPD to:
- (a) Have Right of Use of Railway land (if applicable), access and permission to construct and operate the solar project at the identified Site for the purpose of and to the extent conferred by the provisions of this Agreement;
- 18.4 Any requirement related to infrastructure development to access the site for development of solar power plant shall be the responsibility of SPD. Railways to provide necessary assistance for the same.

18.5 Protection of Site from encroachments

During the term of the agreement, the SPD shall protect the Site from any and all occupations, encroachments or Encumbrances, and shall not place or create nor permit any Contractor or other person claiming through or under the SPD to place or create any Encumbrance or security interest over all or any part of the Site or the Project Assets, or on any rights of the SPD therein or under this Agreement, save and except as otherwise expressly set forth in this Agreement.

18.6 Access to Railways and the Railway Electrical Engineer

The right of way and right to the Site granted to the SPD hereunder shall always be subject to the right of access of Railways and the Railway Electrical Engineer and their employees/ agents for regular activities taken up by the Railways for inspection, viewing and exercise of their rights and performance of their obligations under this Agreement.

18.7 Covenants

- a) Security: The SPD shall make its own arrangement for and take reasonable measures and shall be solely responsible for security of the Facility Installations, including commercially reasonable monitoring of the Site's alarms, if any.
- b) The Railways will not initiate or conduct activities that it knows or reasonably should know may damage, impair or otherwise adversely affect the Facility Installations or its function (including activities that may adversely affect the exposure of the Facility Installation to sunlight), without the SPD's prior written consent, which consent shall not be unreasonably withheld or delayed. SPD should either accept or deny in writing any such request within seven (07) days of such request.
- 18.8 Existing utilities and roads The SPD shall, subject to Applicable Laws and with assistance of Railways (In case of Railway Land), undertake shifting of any utility including electric lines, water pipes telephone cables, etc, to an appropriate location or alignment within or outside the Site if and only if such utility causes or shall cause a material adverse effect on the construction, operation or maintenance of the Project. The cost of such shifting shall be borne by SPD.

18.9 Inspection

Railways shall at all reasonable times during the Term, have the right to enter upon and access the solar plant Land for inspecting the solar plant. The SPD shall allow and accord all reasonable assistance to Railways to inspect the Unit. The SPD shall have the right to accompany Railways during its inspection of the solar plant.

18.10 Safety, breakdowns and accidents

18.10.1 The SPD shall ensure safe conditions for the operation of Solar Power System and in the event of unsafe conditions, damage, breakdowns and accidents; it shall follow the relevant operating procedures and undertake removal of obstruction and debris without delay. Such procedures shall conform to the provisions of this Agreement, Applicable Laws, Applicable Permits and Good Industry Practice.

18.10.2 In the event of any accident on the Solar Power System and upon receipt of a request in writing sent by the SPD, Nodal Railway shall at the cost of the SPD arrange for relief and evacuation in the same manner as applicable in case of accidents.

18.11 Advertising on the Solar Power System

The SPD shall not undertake or permit any form of commercial advertising, display or hoarding at any place on the Site

18.12 The SPD shall ensure transfer of all project elements to Zonal Railway after 25 years i.e. on expiry of PPA at no cost and free from any encumbrances and liability. The Railway in the twenty sixth year (26th) may examine the need of up-gradation of the system or renovation and modernization of the existing system depending on technological options available at that time and SPD with mutual consent may carry out the same (on chargeable basis). Any maintenance thereafter would be ensured by Railways/ Nodal Railway.

Alternatively, Nodal Railway may advise SPD after 25 years i.e. on expiry of PPA to dismantle the solar plant at his own cost and handover the land in clear position to Railways/REMC Ltd. within 180 days from the Expiry. Energy bills which are to be paid to the SPD for last 06 months of the PPA period (25 years) and outstanding amount if any shall be kept by Nodal Railway as security for dismantling of the Solar Plant. The amount shall be paid after satisfactory completion of dismantling of Solar Plant by the SPD.

In case Nodal Railway has to dismantle the plant then that cost will be deducted from the above security amount.

18.13 Railways will indemnify, defend, save and hold harmless the SPD against any and all suits, proceedings, actions, demands and claims from third parties for any loss, damage, cost and expense of whatever kind and nature arising out of (i) defect in title and/or the rights of Railways in the land comprised in the Site, and/or (ii) breach by Railways of any of its obligations under this Agreement or any related agreement, which materially and adversely

affect the performance by the SPD of its obligations under this Agreement, save and except that where any such claim, suit, proceeding, action, and/or demand has arisen due to a negligent act or omission, or breach of any of its obligations under any provision of this Agreement or any related agreement and/or breach of its statutory duty on the part of the SPD, its subsidiaries, Associates, contractors, servants or agents, the same shall be the liability of the SPD.

- 18.14 In case of Railway Land if the Railways decides / wants to take back the land in which Solar Plant is being installed / already installed and commissioned, railways will provide suitable alternative site (s) with the nearly similar insolation and connectivity with CTU/STU and bear the cost of transportation of the solar plant and the cost of deemed Generation as per the relevant provisions in PPA . The selected SPD will carry out such shifting within a period of 3 months from the date of providing of alternative site (s) by Railways. However, before taking this decision of shifting the solar power plant to a new site, a cost benefit analysis of shifting vis a vis termination would be carried out by Nodal Railway. The decision taken by Nodal Railway shall be final and binding on the SPD.

SCHEDULE 1: FORMAT OF THE PERFORMANCE BANK GUARANTEE

(to be submitted separately for each Project)

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

In consideration of the ----- [Insert name of the Bidder] (hereinafter referred to as selected Solar Power Developer') submitting the response to RfS inter alia for selection of the Project of the capacity ofMW, at[Insert name of the place] under

.....[Insert name of the RfS], for supply of power there from on long term basis, in response to the RfS dated..... issued by REMC Limited (hereinafter referred to as REMC Ltd.) and REMC LTD. considering such response to the RfS of[insert the name of the selected Solar Power Developer] (which expression shall unless repugnant to the context or meaning thereof include its executors, administrators, successors and assignees) and selecting the Solar Power Project of the Solar Power Developer and issuing Letter of Award No to (Insert Name of selected Solar Power Developer) as

Per terms of RfS and the same having been accepted by the selected SPD resulting in a Power Purchase Agreement (PPA) to be entered into, for purchase of Power [from selected Solar Power Developer or a Project Company, M/s ----- {a Special Purpose Vehicle (SPV) formed for this purpose}, if applicable]. As per the terms of the RfS, the _____ [insert name & address of bank] hereby agrees unequivocally, irrevocably and unconditionally to pay to Zonal Railway at [Insert Name of the Place from the address of the Zonal Railway] without demur forthwith on demand in writing from Zonal Railway or any Officer authorized by it in this behalf, any amount up to and not exceeding Rupees [Total Value] only, on behalf of

M/s _____ [Insert name of the selected Solar Power Developer / Project Company]

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

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

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

The Guarantor Bank hereby agrees and acknowledges that Zonal Railway shall have a right to invoke this BANK GUARANTEE in part or in full, as it may deem fit.

The Guarantor Bank hereby expressly agrees that it shall not require any proof in addition to the written demand by Zonal Railway, made in any format, raised at the above mentioned

address of the Guarantor Bank, in order to make the said payment to Zonal Railway.

The Guarantor Bank shall make payment hereunder on first demand without restriction or conditions and notwithstanding any objection by -----[Insert name of the selected Solar

Power Developer / Project Company as applicable] and/or any other person. The Guarantor Bank shall not require Zonal Railway to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against Zonal Railway in respect of any payment made hereunder.

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

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

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

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

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

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

Signature _____

Name _____

Power of Attorney No. _____

For

_____ [Insert Name of the Bank] _____

E-mail ID of the bank:

Banker's Stamp and Full Address.

Dated this _____ day of _____, 20__

Witness:

1.
Signature

Name and Address

2.
Signature

Name and Address

Notes:

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

**SCHEDULE 2: FORMAT OF PAYMENT ON ORDER INSTRUMENT TO BE ISSUED BY
IREDA/REC/PFC**

(to be submitted separately for each Project)

No.

Date

Zonal Railway,

Registered

Reg: M/s _____(insert name of the PPA signing entity) (Project No. _____(insert project ID issued by Zonal Railway) – Issuance of Payment on Order Instrument for an amount of Rs. _____

Dear Sir,

1. The Ministry of New and Renewable Energy, Government of India vide its letter dated 12th March 2020 has decided that to facilitate the promotion of solar and wind power development and implementation of the project by the Solar and Wind Power Developers who have entered into financing and funding agreements with IREDA/REC/PFC, the security by way of PBG in the form of Performance Bank Guarantee given by the Developers be allowed to be substituted by Letter of Undertaking/Payment on Order Instrument issued by Non-Banking Finance Companies under the control of the Ministry of New and Renewable Energy and Ministry of Power. Zonal Railway and other nodal agencies appointed by the Government of India with whom the power developers have entered into Power Purchase Agreement may accept the same in place of PBG. The Ministry of New and Renewable Energy vide letter dated 12.03.2020 has, inter-alia, decided asunder:

6. After carefully examining the matter, the Ministry have decided as follows:

- b) (i) SECI or NTPC or any other implementing agency on behalf of MNRE (henceforth called implementing agencies) may release the Performance Bank Guarantee (PBG) of any project if RE developers are able to replace the same with Letter(s) of Undertaking to pay in case situation of default of RE developer in terms of Power Purchase Agreement (PPA) arises, from Indian Renewable Energy Development Agency Limited (IREDA) or Power Finance Corporation Limited (PFC) or REC Limited (REC), the three non- banking financial institutions under Ministry of New & Renewable Energy (MNRE)/ Ministry of Power (MoP). These three financial institutions - IREDA or PFC or REC may issue such Letter(s) of Undertaking to pay only after securing their financial interests taking into account the security(ies) available with them as per their policy and after due diligence. These non-banking financial institutions would ensure that the security(ies) available with them are enough to cover full risk/ or exposure, which*

may arise on account of issue of such Letter(s) of Undertaking. Such Letter(s) may be termed as "Payment on Order instrument" and will have same effect as that of a Bank Guarantee issued by any public sector bank. This "Payment on Order instrument" would have terms and conditions similar to that of any Bank Guarantee given by any public sector bank and would promise to pay the implementing agencies on demand within stipulated time.

(ii) RE developers can seek such Letters(s) by offering due security to the above mentioned three non-banking financial institutions mentioned above (IREDA, PFC & REC) for seeking replacement of their Bank Guarantees already pledged with the implementing agencies.

(iii) For future projects, RE developers would be at liberty to either pledge Bank Guarantee(s) or Letter(s) of Undertaking as stated above towards Performance Bank Guarantee.

(iv) The above decisions may be treated as amendments to the respective Standard Bidding Guidelines (SBG) (solar/wind) and notified accordingly.

(v) Implementing agencies shall not accept the instrument of 'Letter of Undertaking' as described above or in any other form, from any other non-banking financial institutions or bank, except IREDA, PFC & REC.

2. It is to be noted that M/s. _____ (insert name of the POI issuing Agency) ('IREDA/REC/PFC') has sanctioned a non-fund based limit loan of Rs. _____ (Rupees _____ only) to M/s _____ under the Loan Agreement executed on _____ to execute Renewable Energy Projects.
3. At the request of M/s _____, on behalf of _____ (insert name of the SPV), it is now intended and proposed to issue this Payment on Order Instrument (POI) for an amount of Rs. _____ (Rupees _____ (in words)).
4. In consideration of the ----- [Insert name of the Bidder] (hereinafter referred to as selected Solar Power Developer') submitting the response to RfS inter alia for selection of the Project of the capacity of MW, at [Insert name of the place] under RfS for, for supply of power there from on long term basis, in Response to the RfS dated issued by REMC Ltd. (hereinafter referred to as REMC LTD.) and REMC LTD. considering such response to the RfS of [insert the name of the selected Solar Power Developer] (which expression shall unless repugnant to the context or meaning there of include its executors, administrators, successors and assignees) and selecting the Solar Power Project of the Solar Power Developer and issuing Letter of Award No _____ to (Insert Name of selected Solar Power Developer) as per terms of RfS and the same having been accepted by the selected SPD resulting in a Power Purchase Agreement (PPA) to be entered into, for

purchase of Power [from selected Solar Power Developer or a Project Company, M/s --

{a Special Purpose Vehicle (SPV) formed for this purpose}, if applicable]. As per the terms of the RfS, the _____ [insert name & address of IREDA/PFC/REC] hereby agrees unequivocally, irrevocably and unconditionally to pay to Zonal Railway at [Insert Name of the Place from the address of the Zonal Railway] forthwith on demand in writing from REMC LTD. or any Officer authorized by it in this behalf, any amount up to and not exceeding Rupees----- [Total Value] only, on behalf of M/s _____ [Insert name of the selected Solar Power Developer / Project Company]

5. In consideration of the above facts, IREDA/REC/PFC, having its registered office at _____, agrees to make payment for the sum of Rs. _____ lakhs (in words.....) to Zonal Railway on the following conditions:-

- (a) IREDA/REC/PFC agrees to make payment of the above said amount unconditionally, without demur and without protest within a period of days of receipt of request from Zonal Railway within the validity period of this letter as specified herein;
- (b) The commitment of IREDA/REC/PFC, under this Payment on Order Instrument will have the same effect as that of the commitment under the Bank Guarantee issued by any Public Sector Bank and shall be enforceable in the same manner as in the case of a Bank Guarantee issued by a Bank and the same shall be irrevocable and shall be honored irrespective of any agreement or its breach between IREDA/REC/PFC or its constituents notwithstanding any dispute that may be raised by them against Zonal Railway;
- (c) The liability of IREDA/REC/PFC continues to be valid and binding on IREDA/REC/PFC and shall not be terminated, impaired and discharged, by virtue of change in its constitution and specific liability under letter of undertaking shall be binding on its successors or assignors;
- (d) The liability of IREDA/REC/PFC shall continue to be valid and binding on IREDA/REC/PFC and shall not be terminated/ impaired/ discharged by any extension of time or variation and alternation made given or agreed with or without knowledge or consent of the parties (Zonal Railway), subject to the however to the maximum extent of amount stated herein and IREDA/REC/PFC is not liable to any interest or costs etc;
- (e) This Payment of Order Instrument can be invoked either partially or fully, till the date of validity;
- (f) IREDA/REC/PFC agrees that it shall not require any proof in addition to the written demand by Zonal Railway made in any format within the validity period. IREDA/REC/PFC shall not require Zonal Railway to justify the invocation of the POI against the SPV/SPD, to make any claim against or any demand against the SPV/SPD or to give any notice to the SPV/SPD;

- (g) The POI shall be the primary obligation of IREDA/REC/PFC and Zonal Railway shall not be obliged before enforcing the POI to take any action in any court or arbitral proceedings against the SPV/SPD;
- (h) Neither Zonal Railway is required to justify the invocation of this POI nor shall IREDA/REC/PFC have any recourse against Zonal Railway in respect of the payment made under letter of undertaking;
6. Notwithstanding anything contrary contained anywhere in this POI or in any other documents, this POI is and shall remain valid upto _____ and IREDA/REC/PFC shall make payment there under only if a written demand or request is raised within the said date and to the maximum extent of Rs... and IREDA/REC/PFC shall in no case, be liable for any interest, costs, charges and expenses and IREDA's/REC's/PFC's liability in no case will exceed more than the above amount stipulated.
7. In pursuance of the above, IREDA/REC/PFC and Zonal Railway have signed an Umbrella Agreement dated setting out the terms and conditions for issue of letter of undertaking by IREDA/REC/PFC to Zonal Railway and the said terms and conditions shall be read as a part of this letter of undertaking issued for the project of the project of PP mentioned above.

Thanking you,

Yours faithfully
For and on behalf of

M/s. _____
(name of the POI issuing agency).

()
General Manager (TS)

Copy to:-

M/s. PP _____

_____As per their request

()
General Manager (TS)

SCHEDULE 3: COMMISSIONING PROCEDURE

❖ Capacity of Solar PV Projects:

i) The Project configuration shall be allowed as per the following example given below:

Sr. No.	Solar PV Project Capacity Bid	Minimum DC Arrays Capacity to be installed	Minimum Rated Inverter Capacity*	Maximum AC Capacity Limit at Delivery point
1	50 MW	50 MW	50 MW	50 MW

*Incase the rated inverter capacity is mentioned in kVA, the IEC test certificate declaring the power factor of the Inverter/PCU at rated power has to be submitted and the power factor shall be multiplied by the kVA rating to calculate the rated capacity of the inverter in kW.

- ii) The SPD shall be required to demonstrate compliances with the “*Technical Requirements for Grid Connected Solar PV Power Plants*” as mentioned in the RfS and Guidelines.
- iii) Higher DC capacity arrays can also be allowed, subject to the condition that the AC capacity limit as mentioned in (i) above for scheduling at the Delivery Point as per Article 4.4 “Right to Contracted Capacity & Energy” of the PPA is complied with.
- iv) For commissioning of the Project, cumulative capacity of DC arrays and cumulative capacity of the inverters installed shall be considered. In case of part commissioning of the Project, it shall be required to have the DC Arrays Capacity and inverters capacity be installed not less than the proposed part commissioning capacity.
- v) If generation at any time exceeds the maximum permissible AC capacity at delivery point, the excess generation during that period may not be considered under PPA.

SCHEDULE-4: PROJECT TIMELINES

The timeline schedule shall be added here and agreed by the SPD.

APPENDIX-1: COMMISSIONING PROCEDURE

The Solar PV Project will be declared as commissioned when all equipment as per rated project capacity has been installed and energy from the Project has flown into the grid, which will be verified by a committee/agency identified by Railways to witness the Commissioning of the Project. Railway may form a commissioning committee comprising of officials from Division/ Headquarter of Zonal Railways and representative of SPD.

Following is the chronology of the procedure to be followed for commissioning of the Project.

- i) SPDs shall give to the concerned RLDC/SLDC, State Nodal Agency (SNA) and Railways at least thirty (30) days advance written notice, of the date on which it intends to synchronize the Power Project to the Grid System. The SPD shall be solely responsible for any delay or non-receipt of the notice by the concerned agencies, which may in turn affect the Commissioning Schedule of the Project. Early Commissioning of a Solar Project prior to the SCD is permitted on acceptance of power by Railways. In order to facilitate this, SPDs shall inform the concerned RLDC/SLDC and Railways well in advance, which is not less than 90 days prior to the date on which it intends to synchronize the Power Project to the Grid System.
- ii) Not more than 7 days prior to the proposed commissioning date, the SPD shall give the final written notice to Railways, SNA and STU/CTU requiring the commissioning committee/agency to visit the site to witness commissioning of the project. Following documents are required to be submitted by the SPD, physically in the office of Railways along with the above notice, duly stamped and signed by the Authorized Signatory (scanned copies may also be allowed):
 - a. Covering Letter
 - b. Board resolution for authorized signatory for signing the documents related to commissioning of the Project and witnessing the commissioning.
 - c. Installation report duly signed by the authorized signatory as per Appendix-A1-2. The SPD is advised to take due care in furnishing such Installation Report. Discrepancy (if any) and observed by Railways, may be construed as misrepresentation of information by the SPD and Railways may take appropriate action as per this Agreement.
 - d. Plant Layout, Plant (AC & DC) SLD, along with Inverter-wise module details.
 - e. CEI/CEIG (as applicable) report containing approval for all the components, including modules, inverters, transformers and protection system, along with all annexures/attachments. It would be the responsibility of the SPD to obtain the certificate.
 - f. Connectivity and Long-Term Access, along with Transmission Agreement.
 - g. Metering Scheme Approval provided by CTU/POSOCO
 - h. Relevant documents from SLDC/RLDC/SPIA/SPD acknowledging successful data communication between plant end and SLDC/RLDC.
 - i. RLDC Registration certificate and Charging code/Permission for

charging the generating station issued by respective RLDC/SLDC etc. Joint Meter Reading (JMR) shall be taken at Delivery Point and Pooling Substation (if applicable)/plant premise at the time of connectivity of the Project with Grid. This shall include information of respective meters installed at delivery/ interconnection point and pooling substation/plant premises.

j. Synchronization Certificate issued by STU/CTU for ascertaining injection of power into grid. Self-declaration of synchronization is required along with copy of communication received from CTU/RLDC/SPIA for charging of each element.

k. In line with CERC Order No. 1/14/2015-Reg.Aff.(FSDS-Proced.)/CERC Dated 03.03.2017, SPD shall ensure data telemetry at the inverter level to the concerned RLDC and shall ensure the correctness of the real-time data and undertake the corrective actions, if required.

Line of confirmation received from RLDC/CTU/SPIA with regards to above is required Prior to visit for witnessing the commissioning activities.

l. Reading of all the inverters (instantaneous and total generation) along with its serial number of a particular date.

iii) After the submission/ upload of the documents by SPD, Railways shall verify the documents and intimate/reply with remarks. In case any additional supporting/revised documents are asked by Railways, the same have to be submitted by the SPD.

iv) Based on the submission of the above documents by the SPD, Railways shall intimate to the SPD about its readiness to visit the project site to witness the commissioning and shall notify the Commissioning Committee/Agency which shall visit the Project site to witness the commissioning of the Project. In case of a multi-agency Committee, the SPD shall ensure the presence of all the members of the Committee constituted to witness the commissioning, on the said date.

v) The Commissioning Committee/Agency shall visit the Project site to verify the technical compliance on site as per the information submitted by the SPD and to witness the commissioning. In case the committee finds discrepancy/deviation from the information submitted by the SPD during on site verification, the same shall be recorded in the minutes of meeting of the Committee/Agency. Railways shall decide the next date of visit of the Committee/Agency upon rectification of the discrepancies by the SPD.

vi) On the date of site-visit, the SPD shall be required to demonstrate that equipment of rated capacity has been installed, all the inverters of rated capacity are operating and energy from the project has flown into the grid.

vii) Joint Meter Reading (JMR) shall be taken at Delivery Point and Pooling Substation (if applicable)/plant premise on the date of site visit by the commissioning committee. This shall include information of respective meters installed at delivery/ interconnection point and pooling substation/plant premises.

viii) In case the Project meets the requirements as per the provisions of the RfS as

verified by the Commissioning Committee/Agency witnessing the commissioning, the Project shall be declared as having been commissioned as on the date of synchronization with the grid, as indicated in the Synchronization Certificate. The date of Commissioning of the Project may be indicated in the Minutes of Meeting of the Committee/ recommendation of the Agency visiting the Project. Any other observation contrary to the above, shall be clearly indicated in the Minutes/recommendations and further decision on commissioning of the Project shall be taken by Railways in this regard.

- ix) Subsequent to the visit of the Commissioning Committee/Agency to the Project site, the SPD shall submit the following documents in hard copy/scanned form, in order to fulfil the requirements for issuance of Commissioning Certificate:
 - a. Minutes of Meeting of the Commissioning Committee/recommendations of the Agency which has witnessed the commissioning of the Project.
 - b. Invoices against purchase of the solar modules, Inverters/PCUs and DC cables along with the summary sheet containing the list of all the invoices, including details and number of items.
 - c. All supporting documents towards meeting the technical compliance along with datasheet/ warranty certificates/ contract agreement etc. as mentioned in Annexure- A of the RfS).
 - d. Snap shots of the plant, including but not limited to, solar PV modules, all central inverters (showing instantaneous and total generation of a particular date), switchyards\switchgears, Power Transformers, metering (as per applicable regulations) at delivery point etc. along with the Installation Report.
 - e. SPD shall have to submit/ upload the as-built drawing after the commissioning.
- x) In case of any deviations recorded by the Commissioning Committee/Agency which had prevented the declaration of commissioning of the Project as on the date of synchronization of the Project, the SPD shall be required to submit to Railways, the necessary documents towards rectification of the deviations observed. Upon successful verification of the required documents, the fresh date of visit of the Commissioning Committee/Agency to the Project, shall be notified by Railways. If the Commissioning Committee/Agency visiting the Project finds the deviations earlier noted having been suitably rectified by the SPD, the date of Commissioning of the Project in this case, shall be the actual date of visit of the Commissioning Committee/Agency, else, the entire process shall be repeated until the observed deviations are rectified by the SPD to the satisfaction of the Commissioning Committee/Agency visiting the Project.
- xi) Subsequent to commissioning, the SPD shall provide the SCADA login details to Railways for online real time data monitoring of the Project. The SPD may be required to push the required plant related data to Railways designated server in xml/json formats.

APPENDIX-2: INSTALLATION REPORT

(To be provided by SPD and to be submitted at most 7 days prior to proposed commissioning date, which shall be verified by Commissioning Committee)

Sr. No.	Capacity of the Project (MW)	
	Capacity already commissioned (MW)	
	Capacity proposed to be commissioned (MW)	
I.	Technology used (Mono/Multi Crystalline / thin film / Others; please specify along with capacity of each type)	
II.	Type of Tilt (Fixed Tilt/Seasonal Tilt/Tracking)	
III.	Rating of each module (Wp)	
IV.	Number of modules installed of each type (along with Serial Nos. of all the modules installed)	
V.	Make of Module(s) installed of each type (including name of the Supplier and country of origin)	
VI.	Number of PCUs / Inverters installed (along with Serial Nos. of all the PCUs/Inverters installed)	
VII.	Make of the PCUs / Inverters (including name of supplier and country of origin)	
IX.	Rating of PCUs / Inverters	
X.	Date of installation of full capacity (as per capacity proposed to be commissioned)	
	PV arrays	
	PCUs / Inverters	
	Transformers	

APPENDIX-3: SAMPLE COMMISSIONING CERTIFICATE OF SOLAR PV POWER PROJECT

(To be issued by the State Nodal Agency on its letter head)

Ref:

Dated:

This is to certify that <M/s> having its registered office at ----- has successfully commissioned Capacity <MW> out of total <MW> installed Capacity on (Date) of their Solar PV Power Generation Project at Village -----, Tehsil/ Taluka ----- & Dist.-----

The Commissioning Certificate has been issued on the basis of the following documents enclosed:

- (i) Installation Report including Snap shots of the Project from various angles
- (ii) Electrical Inspector Report
- (iii) Synchronization Certificate
- (iv) Minutes of Meeting of the Commissioning Committee / recommendation of the Agency visiting the Project

APPENDIX-4 DRAFT AUTHORIZATION LETTER

No:

Dt: _____

To, M/s

(Name & address of the successful bidder)

(Authorization Letter (Through REMC Limited))

Sub: Authorization through REMC Limited setting up of ____ MW solar PV power plant near _____ in _____ (Zonal Railway)

Ref: (i) Power Purchase Agreement (PPA) signed between _____ Railway (ZR) & M/s _____ (Selected SPD) on _____.

(ii) Land Licensee Agreement (LLA) Signed Between ZR & REMC Limited on _____.

Pursuant to the Power Purchase Agreement (PPA) signed between M/s (Selected SPD) and Zonal Railway (ZR) on Dt. _____ & Land Licensee Agreement (LLA) signed between ZR & REMC Limited on _____, REMC Limited hereby authorizes M/s _____ the selected SPD with whom PPA has been signed by the Zonal Railway (ZR) to construct foundations and erect the Solar Power Plant on full or part of the land as given below at item no. (1). The building or installation for the Solar Power Plant shall be constructed in full in accordance with the specifications and plans approved and sanctioned by Administration (ZR) and in accordance with the statutory rules and regulations of local administration.

The authorization letter is valid for a period of 27 years (2 years (as per PPA) for project development & execution time and PPA period of 25 years).

The authorization letter shall be co-terminus with the PPA signed between your firm & ZR for this project. In case of default of the said PPA, this letter shall stand terminated.

Under this Authorization letter your firm shall be obligated with the following responsibilities:

1. Your firm shall have the Right to use the land parcels pieces as per details provided in Annexure-I.
2. The said land having total area _____ Sq.m. shall be used by your firm with whom PPA has been signed by ZR for the purpose of construction of foundations and erection of solar power plant for setting up of ____ MW land based solar PV power plant at _____ in _____ District of _____ (state) & for no other purposes whatsoever and subject to the conditions hereinafter contained.
3. The plots which have been earmarked are tentative in nature and minor variations/additional sites/alternative sites may be provided during the course of execution of the contract as per requirement and/or site conditions shall be governed by PPA.
4. Right of way/Right of Access to your firm shall be governed by Article 10 of the PPA signed between ZR & your firm.
5. In the event of any breach of any of the terms or conditions contained herein, the authorization shall absolutely cease and determine.
6. Your firm shall not transfer, assign, let, underlets, sublet, license, mortgage, charge encumber or part with the possession of the solar project land or any part thereof or any interest therein. Any notice to be served on you shall be deemed to be sufficiently served if delivered at or sent by registered post at their registered office or last known place of business.

7. Your firm shall operate the Solar Plant as per the prudent utility practices throughout the PPA Agreement period.
8. Your firm will provide suitable protection & security of solar plant.
9. Your firm shall be liable for environment protection measures within the Solar Project Land in accordance with Applicable Laws, and shall not do anything adversely affecting the environment.
10. In respect of power supply required during construction period, your firm has to apply to local power distribution authorities at its own cost and your firm shall also be responsible for all including timely payments etc. However, ZR will extend necessary support in obtaining the power supply connection.
11. In the event that your firm requires digging any well or tubing well or otherwise taking water from any water source, in the Solar Project Land, it shall only do so in accordance with Applicable laws and after prior approval from Railways (ZR).
12. While using the solar projects land, if your firm causes any harm or injury to any person/animal, it shall be liable to pay compensation or damages and also liable for any criminal liability for such acts.
13. In the event that your firm requires cutting any trees on the Solar Project Land, it shall do so only in accordance with Applicable Laws.
14. Not used
15. Your firm shall ensure proper safety measures during the implementation of the Solar Project, including any geological study, construction and testing on the Solar Project Land and shall meet minimum safety standards prescribed under Applicable Laws for the safety of all personnel engaged in the design, construction, operation, maintenance and repair of the solar plant. ZR shall have the right to institute an appropriate mechanism to ensure compliance by your firm in this regard.
16. Your firm shall ensure safe conditions for the operation of Solar Power System and in the event of unsafe conditions, damage, breakdowns and accidents; it shall follow the relevant operating procedures and undertake removal of obstruction and debris without delay. Such procedures shall conform to the provisions of this Agreement. Applicable Laws, Applicable Permits and Good Industry Practice.
17. Alternative facilities in case any existing facilities including, but not limited to, roads, bridges, buildings and communication system(s), are affected because of the implementation of the Solar Project, your firm shall be responsible and bear the cost of taking remedial measures. Your firm shall not interfere with any of the existing facilities till an alternate facility is created as approved by the concerned Governmental Instrumentality.
18. Maintaining Ecological Balance: your firm shall be responsible for maintaining the ecological balance by preventing deforestation, water pollution and defacement of natural landscape in the vicinity of the Solar Projects Land. Your firm shall take all reasonable measures to prevent any unnecessary destruction, scarring or defacement of the natural surroundings in the vicinity of the Solar Project Land.
19. Archaeological findings, treasures etc.: All Fossils, coins, articles of value or antiquity and structures and other remains or things of geological or archaeological interest discovered on or in the solar project land shall be deemed to be the absolute property of ZR. Your firm shall take reasonable precautions to prevent its workmen or any other persons from damaging any such article or thing. Your firm shall arrange to hand over the same to ZR free of cost, provided that, in case any precious or semi-precious material is located, your firm shall inform ZR immediately and abide by the directives of ZR which shall be communicated within a period of 15 (fifteen) Days from the date of receipt of such intimation from you.
20. Your firm, while providing employment for construction activities, shall endeavour to give preference to locals as per their availability and suitability and shall also give preference to locally manufactured materials/components for construction activities, subject to availability and suitability of the same.

21. Your firm shall use the land in most efficient manner. Your firm shall maintain the Solar Project Land in a clean and sanitary condition to the satisfaction of the ZR and shall also maintain the structures, if any, erected thereon as aforesaid, in good, and substantial repair to the satisfaction of the Administration.
22. Your firm shall not use the said land or any part thereof or permit the same to be used for worship or religious or educational purpose or for any other purpose not specified in the PPA _____ signed with ZR.
23. Your firm shall allow the General Manager or other officers of the _____ Railway/REMC Limited authorized on his behalf, free access at all times to the said land, to all building, works and conveniences of the your firm thereon whether complete or in course of construction and your firm shall whenever so requested by the said General Manager or aforementioned officer, forthwith pull down, re-build, replace or repair any part or parts of such Solar Power Plant, tanks, buildings, works or conveniences which the General Manager or the Authorized Officer may consider to be not as per approved drawing. All such alterations, repairs and the like must not in any way infringe the requirement of statutory rules.
24. Nothing herein contained shall be construed to prejudice or affect the rights and powers of ZR in and over and in relation to the said land and the use and enjoyment thereof and the exercise your firm of the liberties granted shall in all respects be subject to the control of ZR which shall have full and absolute power from time to time to direct in what manner such liberties shall be exercised and enjoyed by your firm, and as ZR shall from time to time direct not to do or suffer or cause to be done or suffered in relation to the exercise of the said liberties and lease anything that may be nuisance to the neighborhood, or dangerous to the adjoining premises or to the servants or agents of ZR or to any other person. All instructions given by ZR under this clause will be carried out by your firm.
25. Your firm shall follow all rules and regulations of Municipal Law or local government body laws and all other Laws, rules or regulation applicable to the constructions and storage, maintenance or for public safety.
26. ZR may upon the determination of this Authorization letter, enter upon and retake and absolutely retain possession of the said land. Your firm shall at all times keep the Railway Administration (ZR) indemnified against and shall reimburse to ZR all claims, demands, suits, losses, damages, costs, charges and expenses whatsoever which ZR may sustain or incur by reasons or in consequence of any injury to any person or to any property resulting directly or indirectly for any reason whatsoever upon the said land or by reason or in consequence of the exercise by your firm or his servant or agent of any of the liberties hereby granted or the nonobservance or non-compliance on the part of your firm, his servant and agent with any rule, regulation or bye law referred to herein. Further, your firm shall not be entitled to any claim form ZR in respect of any damage which might sustain on account of fire or other causes howsoever arising.
27. Your firm shall on completion of the Power Purchase Agreement period, deliver peaceful and vacant possession of the premises to the ZR.
28. In the event that your firm does not to fulfil the above conditions, the following penalties shall be applicable on it: (i) Termination of Power Purchase Agreement as per PPA terms. (ii) Encashment of PBG as per PPA terms. (iii) Action as per rules for encroachment of Railways land. (iv) Commercial charges (if applicable).
29. Your firm shall undertake to establish, construct and operate the Solar Power project in accordance with applicable law, the Grid Code, the terms and conditions of this Agreement and Prudent Utility Practices.
30. Your firm shall permit conducting of an audit if deemed required to confirm whether your firm has been in due compliance of all the applicable law, the Grid Code, the terms and conditions of this Agreement and Prudent Utility Practices. Your firm shall also ensure that answer to any query raised in this audit and/or any document/information required by the auditor is provided within reasonable time.
31. Your firm shall establish and maintain its own fire-fighting and safety equipment to avoid/minimize the loss/damage of property/equipment in case of fire. ZR/REMC Limited shall not be responsible for any loss/damage of property/equipment of your firm due to fire accidents.
32. During the term of the Authorization letter, your firm shall ensure that the Solar Power Plant including all the building, structures erected on the Solar Power Land are insured at its own cost against any loss or damage.

33. Your firm shall obtain and renew, if necessary, at its own cost and risk, all necessary permissions, approvals, licenses and permits for the Solar Power Project and shall pay all license and other levies, cess and taxes in respect of the Solar Project Land by reason of their being used for the purpose aforesaid and to observe and perform all local, police, municipal laws and/or policies and rules and regulations in connection with such use. ZR will sign all such documents and make all such applications as may be reasonably required of ZR at the cost of your firm for enabling you to obtain all necessary permissions, licenses and/or approvals for constructing, repairing, running and/or maintaining the plant.

34. Indemnities and limitation of liability: You shall fully indemnify, defend and hold harmless the REMC Limited /ZR and its officers, servants, agents, against any and all suits, proceedings, actions, demands, claims.

(a) Any breach by the firm of any of its obligations, covenants, agreement, representations, or warranties set forth in the PPA signed for this project with ZR and this Authorization Letter:

(b) Any loss of property, damage to property, personal injury or death occasions to or suffered by any person, to the extent that the damage to or loss of property or the personal injury or death is caused willfully or negligently by firm, and

(c) Any breach, violation or non-compliance by your firm of any applicable laws and/or applicable permits.

35. This Authorization letter is being issued by REMC Limited (through ZR) in duplicate. You are requested to sign and return one copy of the Authorization letter to REMC Limited office duly accepted & received as acknowledgement within 7 (seven) days of the receipt.

(REMC Ltd.)

Copy to:-

1. EDEEM/Railway Board, Rail Bhawan, New Delhi – For kind Information.
2. PCEE, Zonal Railway – For information & necessary action please.

APPENDIX-5: RBI LETTER OF MANDATE FORM

Letter of Mandate

Sr. No. Date:

To, The Regional Director
Reserve Bank of India Banking Department
_____ Regional Office

Dear Sir,

Mandate to debit account

1. We hereby authorize Reserve Bank of India (RBI) to unconditionally debit our account no. _____ maintained with RBI, even if the balance is negative, by an amount not exceeding _____ (Amount in Figures and Words) and credit the amount to _____ (Name of State Electricity Board) account no. _____ maintained at _____ (name of bank) under advice to us after a claim / claims is/are raised to RBI in writing by the Solar Power Developer (SPD) stating that _____ (Name of Railways unit) have committed default in settling the dues of _____ (Name of SPD) relating to payment of electric charges. The claim may be raised by _____ (Name of SPD) in full or in parts.

2. We understand that RBI will not obtain any other documents from the SPD to verify the commitment pf default, other than the debit claim from the SPD. Further, we agree to bear any losses/ claims that may arise directly or indirectly on account of the RBI acting on instruction/mandate and RBI in no case will be a party in any dispute arising between us and the SPD for any debit claim raised by the SPD.

3. The authority shall continue in force till the close of business on _____ (date) or until we shall have expressly revoked it by notice

in writing delivered to you and you have acknowledged receipt of such notice, whichever is earlier.

A copy of this Letter of Mandate may be handed over to SPD.

(Authorised signatory)

Seal of the Office

Name:

Designation:

APPENDIX-6: INTEGRITY PACT

Between

Nodal Railway hereinafter called the “Employer” for Execution stage AND M/s _____ hereinafter referred to as "The Bidder/Contractor". Shall sign the integrity pact with Successful Developer at the time of signing of PPA. The relevant provisions pertaining with execution of project in this pact shall be applicable. This pact begins when both parties have legally signed it. It expires for the Developer when his Bid Security / Earnest Money is released after signing of PPA with successful bidder.

Preamble

The Employer intends to award, under laid down organizational procedures, contract/s for “Setting up of upto.....MW Solar PV Power plant in Railway Land under Tariff Based Competitive Bidding” The Employer values full compliance with all relevant laws and regulations, and economic use of resources, and of fairness and transparency in his relations with the Bidder/s and/or contractor/s. In order to achieve these goals, the Employer will appoint an Independent External Monitor (IEM) who will monitor the execution of the contract for compliance with the principles mentioned above.

Section 1 – Commitments of the Employer

- 1) The Employer commits himself to take all measures necessary to prevent corruption and to observe the following principles: -
 - a No employee of the Employer, personally or through family members, will in connection with the tender or for the execution of the contract, demand, take a promise for or accept, for self or third person, any material or immaterial benefit which the person is not legally entitled to.
 - b The Employer will, during the tender process, treat all Bidders with equity and reason. The Employer will in particular, before and during the tender process, provide to all Bidders the same information and will not provide to any Bidder confidential/additional information through which the Bidder could obtain an advantage in relation to the tender process or the contract execution.
 - c The Employer will exclude from the process all known prejudiced persons.
- 2) If the Employer obtains information on the conduct of any of his employees which is a criminal offence under the IPC (Indian Penal Code) /PC (Prevention of Corruption) Act, or if there be a substantive suspicion in this regard, the Employer will inform its Chief Vigilance Officer and in addition can initiate disciplinary action.

Section 2 – Commitments of the Bidder/Contractor

- 1) The Bidder commits himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the tender process and during the contract execution.

- a The Bidder will not directly or through any other person or firm, offer, promise or give to any of the Employer's employees involved in the tender process or the execution of the contract or to any third person any material or other benefit which he is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.
 - b The Bidder will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions, to restrict competitiveness or to introduce cartelization in the bidding process.
 - c The Bidder will not commit any offence under the relevant IPC/PC Act; further the Bidder will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Employer as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
 - d The Bidder will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
 - e Foreign bidders shall disclose the name and address of agents and representatives in India.
 - f Indian Bidders shall disclose their foreign principals or associates.
- 2) The Bidder will not instigate third persons to commit offences outlined above or be an accessory to such offences.

Section 3- Disqualification from tender process and exclusion from future contracts

If the Bidder, before award or during execution has committed a transgression through a violation of Section 2 above, or in any other form such as to put his reliability or credibility in question, the Employer is entitled to disqualify the Bidder/Contractor from the tender process or take action as per the procedure mentioned in the "Guideline on banning of business dealing" annexed and marked as **Annexure "A"** below.

Section 4- Compensation for Damage

- 1) If the Employer has disqualified in terms of the provisions in Section 3, the Bidder/Contractor from the tender process prior to the award of contract, the Employer is entitled to demand and recover the damages equivalent to Earnest Money Deposit/ Bid Security.

- 2) If the Employer has terminated the contract during execution in terms of the provisions under Section 3, the Employer shall be entitled to demand and recover from the Contractor the damages equivalent to Earnest Money Deposit, Security Deposits already recovered and Performance Guarantee, which shall be absolutely at the disposal of the Employer.

Section -5 Previous transgression

- 1) The Bidder declares that no previous transgression occurred in the last 3 years with any other Company in any country conforming to the Anti-Corruption approach or with any other Public Sector Enterprise in India that could justify his exclusion from the tender process.
- 2) If the Bidder makes incorrect statement on this subject, he can be disqualified from the tender process or action can be taken as per the procedure mentioned in "Guideline on banning of business dealing".

Section -6 Equal treatment of all Bidders/Contractors/Sub-Contractors

- 1) The Bidder undertakes to demand from all partners/sub-contractors (if permitted under the conditions/ clauses of the contract) a commitment to act in conformity with this Integrity Pact and to submit it to the Employer before signing the contract.
- 2) The Bidder confirms that any violation by any of his partners/sub-contractors to act in conformity with the provisions of this Integrity Pact can be construed as a violation by the Bidder/Contractor himself, leading to possible Termination of Contract in terms of Section 4.
- 3) The Employer will disqualify from the tender process all bidders who do not sign this Pact or violate its provisions.

Section 7- Criminal charges against violating Bidders/Contractors/Sub-Contractors

If the Employer obtains knowledge of conduct of a Bidder, Contractor or Partners / Sub-Contractor, or of an employee or a representative or an associate of a Bidder, Contractor or Sub-Contractor, which constitutes corruption, or if the Employer has substantive suspicion in this regard, the Employer will inform the same to its Chief Vigilance Officer.

Section - 8 Independent External Monitor / Monitors

- 1) (1) The Employer shall appoint competent and credible Independent External Monitor for this Pact. The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this agreement.

- 2) The Monitor is not subject to instructions by the representatives of the parties and will perform his functions neutrally and independently. He will report to the (Designated officer of REMC Ltd./Nodal Railway).
- 3) The Bidder/Contractor accepts that the Monitor has the right of access without restriction to all Project documentation of the Employer including that provided by the Contractor. The Contractor will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Partners / Sub-Contractors. The Monitor is under contractual obligation to treat the information and documents of the Bidder/Contractor/Partners/Sub-Contractor with confidentiality.
- 4) The Employer will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the Employer and the Contractor. The parties offer to the Monitor the option to participate in such meetings.
- 5) As soon as the Monitor notices or has reason to believe that violation of the agreement by the Employer or the Bidder/ Contractor, has taken place, he will request the Party concerned to discontinue or take corrective action, or to take any other relevant action. The Monitor can in this regard submit non-binding recommendations. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner or refrain from action or tolerate action.
- 6) As far as possible, the Monitor will submit a written report to the (Designated officer of REMC Ltd.) within 10 days from the date of reference or intimation to him by the Employer and should the occasion arise, submit proposal for correcting problematic situations.
- 7) If the Monitor has reported to the (Designated officer of REMC Ltd./Nodal Railway). of a substantiated suspicion of an offence under relevant IPC/PC Act, and the (Designated officer of REMC Ltd./Nodal Railway). has not, within reasonable time, taken visible action to proceed against such offender or reported it to the Chief Vigilance Officer, the Monitor may also transmit this information directly to the Central Vigilance Commissioner.
- 8) Issues like warranty / guarantee etc. shall be outside the purview of IEMs.
- 9) The word Monitor would include both singular and plural.

Section – 9 Pact Duration

This pact begins when both parties have legally signed it. It expires for the Contractor when his Security Deposit is released on completion of the Maintenance Period and for all other Tenderers six months after the Contract has been awarded. If any claim is made/lodged during this time the same shall be binding and continue to be valid despite the lapse of this pact specified above unless it is discharged/determined by (Designated officer of REMC Ltd./Nodal Railway).

Section 10: Other Provisions

- 1) This agreement is subject to Indian Law. Place of performance and jurisdiction shall be as stated in the Contract Agreement.
- 2) Changes and supplements as well as termination notices need to be made in writing.
- 3) If the Contractor is a partnership or a consortium, this agreement must be signed by the Partner in charge/ Lead Member nominated as being in charge and who holds the Power of Attorney signed by legally authorized signatories of all the partners/Members. The Memorandum of Understanding /Joint Venture Agreement will incorporate a provision to the effect that all Members of the Consortium will comply with the provisions in the Integrity Pact to be signed by the Lead Member on behalf of the Consortium. Any violation of Section 2 above by any of the Partners/Members will be construed as a violation by the consortium leading to possible Termination of Contract in terms of Section 4
- 4) Should one or several provisions of this agreement turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
- 5) A person signing the IP shall not approach courts while representing the matters to IEMs and he/she will await their decision in the matter.
- 6) In case of sub-contracting, the principal contractor shall take the responsibility of the adoption of IP by the sub-contractor.

Designated officer of Nodal Railway Agent / Power of Attorney Holder

(For & on behalf of the Employer) (For the Bidder/Contractor)

(Office Seal) (Office Seal)

Place:

Date:

Witness 1:

(Name & Address) -----

Witness 2

(Name & Address) -----
