

## FORMAT 6.2: FORMAT OF THE PERFORMANCE BANK GUARANTEE

(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 of 15 MW solar PV power plant with 7MW/14 MWH BESS on Railway land at Butibori, Nagpur, Maharashtra 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 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 thereof include its executors, administrators, successors and assignees) and selecting the Solar Power Project of the Solar Power Developer and issuing Letter of Intent 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 NODAL RAILWAY at [Insert Name of the Place from the address of the NODAL RAILWAY] without demure forthwith on demand in writing from NODAL 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 upto and including.....and shall not be terminable by notice or any change in the constitution of the Bank or the term of contract or by any other reasons whatsoever and our liability here under 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..... NODAL RAILWAY shall be entitled to invoke this Guarantee till .....

The Guarantor Bank hereby agrees and acknowledges that NODAL 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 NODAL RAILWAY, made in any format, raised at the above-mentioned address of the Guarantor Bank, in order to make the said payment to NODAL 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 NODAL RAILWAY to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against NODAL 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 NODAL 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 NODAL 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 NODAL RAILWAY and may be assigned, in whole or in part, (whether absolutely or by way of security) by NODAL RAILWAY to any entity to whom NODAL 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 NODAL 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.

## FORMAT 6.3: STATEMENT OF LEGAL CAPACITY

*(To be forwarded on the letterhead of the Bidder/ Lead Member of Consortium)*

Ref. Date:

To,

.....

.....

.....

Dear Sir,

We hereby confirm that we/ our members in the Consortium (constitution of which has been described in the Bid) satisfy the terms and conditions laid out in the RfS document.

We have agreed that ..... (insert member's name) will act as the Lead Member of our consortium.

We have agreed that ..... (insert individual's name) will act as our representative/ will act as the representative of the consortium on its behalf and has been duly authorized to submit the RfS. Further, the authorized signatory is vested with requisite powers to furnish such letter and authenticate the same.

Thanking you,

Yours faithfully,

(Signature, name and designation of the authorized signatory)

For and on behalf of.....

## FORMAT 6.4: FORMAT FOR POWER OF ATTORNEY

(Applicable Only in case of Consortiums)

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

*(To be stamped in accordance with Stamp Act, the Non-Judicial Stamp Paper of Appropriate Value)*

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

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

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

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

We as the Member of the Consortium agree and undertake to ratify and confirm all whatsoever the said Attorney/ Lead Member has done on behalf of the Consortium

Members pursuant to this Power of Attorney and the same shall bind us and deemed to have been done by us.

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

For and on behalf of Consortium Member M/s .....

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

(Name Designation Place: Date:)

Accepted

-----

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

Attested

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(Signature of the executant)

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

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Lead Member in the Consortium shall have the controlling shareholding in the Company as defined in Definition of Terms of the RfS.

## FORMAT 6.5: BANK GUARANTEE FOR BID SECURITY

*To be submitted along with RfS*

(To be stamped in accordance with Stamp Act, the Non-Judicial Stamp Paper of Appropriate Value)

Reference: .....

Bank Guarantee No.: .....

Date: .....

In consideration of the.....[Insert name of the Bidder] (hereinafter referred to as 'Bidder') submitting the response to RfS inter alia for Selection of Solar Power Developers for Setting up of 15 MW solar PV power plant with 7MW/14 MWH BESS on Railway land at Butibori, Nagpur, Maharashtra for supply of power there from on long term basis, in response to the RfS No. .... dated issued by REMC Ltd. considering such response to the RfS of .....[insert the name of the Bidder] as per the terms of the RfS, the.....[insert name & address of bank] hereby agrees unequivocally, irrevocably and unconditionally to pay to REMC Ltd. at [Insert Name of the Place from the address of REMC Ltd.] forthwith without demur on demand in writing from REMC Ltd. or any Officer authorized by it in this behalf, any amount upto and not exceeding Rupees .....[Insert amount not less than that derived on the basis of Rs. 4Lakhs per MW of cumulative capacity proposed], only, on behalf of M/s.....[Insert name of the Bidder].

This guarantee shall be valid and binding on this Bank up to and including.....[insert date of validity in accordance with Clause No. 1.12.2 of this RfS] and shall not be terminable by notice or any change in the constitution of the Bank or the term of contract or by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time



or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between parties to the respective agreement.

Our liability under this Guarantee is restricted to INR .....  
(Indian Rupees) only. Our Guarantee shall remain in force until.....  
\_\_\_\_\_ [insert date of validity in accordance with Clause No. 1.12.2  
of this RfS]. REMC Ltd. shall be entitled to invoke this Guarantee till \_\_\_\_\_ [insert date  
of validity in accordance with Clause No. 1.12.2 of this RfS].

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

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

This BANK GUARANTEE shall be interpreted in accordance with the laws of India and the courts at New 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 REMC Ltd. shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against the Bidder, to make any

claim against or any demand on the Bidder or to give any notice to the Bidder or to enforce any security held by REMC Ltd. or to exercise, levy or enforce any distress, diligence or other process against the Bidder.

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

Notwithstanding anything contained here in above, our liability under this Guarantee is restricted to INR\_\_\_\_\_ (Indian Rupees\_\_\_\_\_ Only) and it shall remain in force until\_\_\_\_\_[Date to be inserted on the basis of Clause No. 1.12.2 of this RfS].

We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if REMC Ltd. serves upon us a written claim or demand.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_ Power of Attorney No.: \_\_\_\_\_  
\_\_\_\_\_ For

\_\_\_\_\_[Insert Name and Address of the Bank]

Contact Details of the Bank: E-mail ID of the Bank:

Banker's Stamp and Full Address.

## FORMAT 6.6: FORMAT FOR BOARD RESOLUTIONS

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

1. **RESOLVED THAT** Mr/Ms..... , be and is hereby authorized to do on our behalf, all such acts, deeds and things necessary in connection with or incidental to our response to RfS in Maharashtra vide RfS No. for 'Setting up of 15 MW solar PV power plant with 7MW/14 MWH BESS on Railway land at Butibori, Nagpur, Maharashtra, including signing and submission of all documents and providing information/response to RfS to REMC Ltd., representing us in all matters before REMC Ltd., and generally dealing with REMC Ltd. in all matters in connection with our bid for the said Project. (***To be provided by the Bidding Company or the Lead Member of the Consortium***)
2. **FURTHER RESOLVED THAT** pursuant to the provisions of the Companies Act, 1956 or Companies Act, 2013, as applicable and compliance thereof and as permitted under the Memorandum and Articles of Association of the Company, approval of the Board be and is hereby accorded to invest total equity in the Project. (***To be provided by the Bidding Company***)

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

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

**FURTHER RESOLVED THAT** approval of the Board be and is hereby accorded to

participate in consortium with M/s ----- [*Insert the name of other Members in the Consortium*] and Mr/ Ms....., be and is hereby authorized to execute the Consortium Agreement. **(To be provided by each Member of the Bidding Consortium including Lead Member)**

And

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

### **Certified True Copy**

----- **(Signature, Name and Stamp of Company Secretary)**

### **Notes:**

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

## FORMAT 6.7: FORMAT FOR CONSORTIUM AGREEMENT

*(To be stamped in accordance with Stamp Act, the Non-Judicial Stamp Paper of  
Appropriate Value)*

THIS Consortium Agreement ("Agreement") executed on this Day of \_\_\_ Two Thousand between M/s \_\_\_\_\_ [Insert name of Lead Member] a Company incorporated under the laws of \_\_\_\_\_ and having its Registered Office at \_\_\_\_\_ (hereinafter called the "**Member-1**", which expression shall include its successors, executors and permitted assigns) and M/s \_\_\_\_\_ a Company incorporated under the laws of \_\_\_\_\_ and having its Registered Office at \_\_\_\_\_ (hereinafter called the "**Member-2**", which expression shall include its successors, executors and permitted assigns), M/s \_\_\_\_\_ a Company incorporated under the laws of \_\_\_\_\_ and having its Registered Office at \_\_\_\_\_

\_\_\_\_\_ (hereinafter called the "**Member-n**", which expression shall include its successors, executors and permitted assigns), [The Bidding Consortium should list the details of all the Consortium Members] for the purpose of submitting response to RfS and execution of Power Purchase Agreement (in case of award), against RfS No. \_\_\_\_\_ dated \_\_\_\_\_ issued by REMC Ltd. a Company incorporated under the Companies Act, 2013, and having its Registered Office at Ground floor, Central wing, RITES Bhawan, Plot No. 1, Sector -29, Gurgaon-122001.

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

WHEREAS Buying Entity desires to purchase Power under Setting up of 15 MW solar PV power plant with 7MW/14 MWH BESS on Railway land at Butibori, Nagpur, Maharashtra;

WHEREAS, REMC Ltd. had invited response to RfS vide its Request for Selection (RfS) dated

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

NOW THEREFORE, THIS AGREEMENT WITNESSTH AS UNDER:

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

1. We, the Members of the Consortium and Members to the Agreement do hereby unequivocally agree that Member-1 (M/s \_\_\_\_\_), shall act as the Lead Member as defined in the RfS for self and agent for and on behalf of Member-2, , , Member-n and to submit the response to the RfS.
2. The Lead Member is hereby authorized by the Members of the Consortium and Members to the Agreement to bind the Consortium and receive instructions for and on their behalf.
3. Notwithstanding anything contrary contained in this Agreement, the Lead Member shall always be liable for the equity investment obligations of all the Consortium Members i.e. for both its own liability as well as the liability of other Members.
4. The Lead Member shall be liable and responsible for ensuring the individual and collective commitment of each of the Members of the Consortium in discharging all of their respective equity obligations. Each Member further undertakes to be individually liable for the performance of its part of the obligations without in any way limiting the scope of collective liability envisaged in this Agreement.
5. Subject to the terms of this Agreement, the share of each Member of the

Consortium in the issued equity share capital of the Project Company is/shall be in the following proportion:

<b>Name</b>	<b>Percentage</b>
Member 1	---
Member 2	---
Member n	---
<b>Total</b>	<b>100%</b>

6. We acknowledge that after the execution of PPA, the controlling shareholding (having not less than 51% of the voting rights and paid-up share capital) in the Project Company developing the Project shall be maintained for a period of 03 (Three) Year after commencement of supply of power.
7. The Lead Member, on behalf of the Consortium, shall inter alia undertake full responsibility for liaising with Lenders or through internal accruals and mobilizing debt resources for the Project, and ensuring that the Seller achieves Financial Closure in terms of the PPA.
8. In case of any breach of any equity investment commitment by any of the Consortium Members, the Lead Member shall be liable for the consequences thereof.
9. Except as specified in the Agreement, it is agreed that sharing of responsibilities as aforesaid and equity investment obligations thereto shall not in any way be a limitation of responsibility of the Lead Member under these presents.
10. It is further specifically agreed that the financial liability for equity contribution of the Lead Member shall not be limited in any way so as to restrict or limit its liabilities. The Lead Member shall be liable irrespective of its scope of work or financial commitments.
11. This Agreement shall be construed and interpreted in accordance with the Laws of India and courts at Delhi alone shall have the exclusive jurisdiction in all matters relating thereto and arising thereunder.
12. It is hereby further agreed that in case of being selected as the

Successful Bidder, the Members do hereby agree that they shall furnish the Performance Guarantee in favour of REMC Ltd. in terms of the RfS.

13. It is further expressly agreed that the Agreement shall be irrevocable and shall form an integral part of the Power Purchase Agreement (PPA) and shall remain valid until the expiration or early termination of the PPA in terms thereof, unless expressly agreed to the contrary by Buying Entity.

14. The Lead Member is authorized and shall be fully responsible for the accuracy and veracity of the representations and information submitted by the Members respectively from time to time in the response to RfS.

15. It is hereby expressly understood between the Members that no Member at any given point of time, may assign or delegate its rights, duties or obligations under the PPA except with prior written consent of REMC Ltd..

16. This Agreement

I. has been duly executed and delivered on behalf of each Member hereto and constitutes the legal, valid, binding, and enforceable obligation of each such Member;

II. sets forth the entire understanding of the Members hereto with respect to the subject matter hereof; and

III. may not be amended or modified except in writing signed by each of the Members and with prior written consent of REMC Ltd..

17. All the terms used in capitals in this Agreement but not defined herein shall have the meaning as per the RfS and PPA.

IN WITNESS WHEREOF, the Members have, through their authorized representatives, executed these present on the Day, Month and Year first mentioned above.

For M/s.....[Member 1]

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(Signature, Name & Designation of the person authorized vide Board Resolution Dated.)

Witnesses:



1)Signature-----

Name:

Address:

2) Signature-----

Name:

Address:

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

(Signature, Name & Designation of the person authorized vide Board Resolution Dated\_)

Witnesses:

1)Signature-----

Name:

Address:

2) Signature-----

Name:

Address:

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

(Signature, Name & Designation of the person authorized vide Board Resolution Dated\_)

Witnesses:

1)Signature-----

Name:

Address:

(2) Signature-----

Name:

Address:

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Signature and stamp of Notary of the place of execution