

Request for Selection (RfS) Document

For

Selection of Wind Power Developers

For

**Setting up of 600 MW ISTS-connected Wind Power
Projects in India under Tariff-Based Competitive
Bidding**

RfS No.: SJVN/CC-Delhi/REIA/2024/WIND-2
Tender Search Code (TSC): SJVN-2024-TN000004



ISSUED BY:

SJVN Limited
(A Joint Venture of Govt. of India & Govt. of Himachal Pradesh)
Contracts & Procurement Section, REIA, Liaison Office
6th Floor, Tower No. 1, Office Block,
NBCC Complex, East Kidwai Nagar, New Delhi-110023
Website: www.sjvn.nic.in,
Email Id: contracts.reia@sjvn.nic.in
CIN No. L40101HP1988GOI008409

DISCLAIMER

1. Though adequate care has been taken while preparing the RfS document, the bidder(s) shall satisfy themselves that the document is complete in all respect. Intimation regarding any discrepancy shall be given by the prospective bidders to the office of SJVN Ltd immediately.
2. If no intimation is received from any bidder within **21 (Twenty-One) days from the date of issuance of RfS documents**, it shall be considered that the document is complete in all respect and has been received/ acknowledged by the bidder(s).
3. SJVN Ltd. reserves the right to modify, amend or supplement this document.
4. This RfS document has been prepared in good faith and on best endeavor basis. Neither SJVN Ltd. nor their employees or advisors make any representation or warranty, express or implied, or accept any responsibility or liability, whatsoever, in respect of any statements or omissions herein, or the accuracy, completeness or reliability of information, and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability or completeness of this document, even if any loss or damage is caused by any act or omission on their part.
5. In case of any discrepancy in the documents uploaded on the websites of SJVN Ltd, ISN-ETS and CPPP, the documents uploaded on the ISN-ETS website will prevail.

Place: New Delhi

Date: 19.04.2024

RfS for selection of WPD for setting up of 600 MW ISTS-connected Wind Power Projects in India under TBCB

SECTION 1: INVITATION FOR BIDS

SECTION-I: INVITATION FOR BIDS

1.1 INTRODUCTION:

- 1.1.1** SJVN Limited (hereinafter referred as “SJVN/Renewable Energy Implementing Agency”) is a Joint Venture of Govt. of India & Govt. of Himachal Pradesh and a Mini Ratna, Category-I and Schedule - ‘A’ CPSE under administrative control of Ministry of Power, Govt. of India.
- 1.1.2** SJVN has been designated as Intermediary Procurer/Renewable Energy Implementing Agency (REIA) vide Office Memorandum F. No. 283/33/2020-GRID SOLAR dt 24th April 2023 issued by Ministry of New and Renewable Energy (MNRE), Govt of India.
- 1.1.3** Ministry of Power (MoP), Govt. of India has issued “Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Power Projects” vide the Gazette of India Notification dated 26.07.2023, including subsequent amendments and clarifications thereto. These Guidelines have been formulated for procurement of wind power through transparent process of bidding under Section 63 of the Electricity Act, 2003 for long-term procurement of electricity through competitive bidding process, by the ‘Procurers’, from grid-connected Wind Power Projects (‘WPP’).
- 1.1.4** This RfS document has been prepared in line with the above Guidelines issued by MNRE, including its subsequent amendments and clarifications.
- 1.1.5** As part of the above scheme, SJVN hereby invites proposals for “**Selection of Wind Power Developers for setting up of 600 MW ISTS-connected Wind Power Projects in India under Tariff-Based Competitive Bidding**”. SJVN shall enter into a Power Purchase Agreement (PPA) with the successful Bidders selected based on this RfS for purchase of Power for a period of 25 years based on the terms & conditions and provisions of the RfS and PPA. The standard PPA document is available for download from the ISN-ETS portal <https://www.bharat-electronictender.com> and SJVN’s website www.sjvn.nic.in.
- 1.1.6** Power procured by SJVN from the above Projects has been provisioned to be sold to the different Buying Entities of India. The details of Buying Entities shall be intimated later. SJVN shall at its discretion be entitled to substitute any entity in other states only for selling the power procured from the selected Bidders. SJVN shall be an intermediary nodal agency/procurer for procurement of power supplied by the Wind Power Developer (WPD)/Wind Power Generator (WPG) and sale of such power to the Buying Entity(ies) entirely on back-to-back basis, based on due performance by the Wind Power Developer (WPD) as well as the Buying Entity(ies).
- 1.1.7** The Bidders will be free to avail fiscal incentives like Accelerated Depreciation, Concessional Customs and Excise Duties, Tax Holidays etc. as available for such Projects. The same will not have any bearing on comparison of bids for selection. As equal opportunity is being provided to all bidders at the time of tendering itself, it is up to the bidders to avail various tax and other benefits. No claim shall arise on SJVN for any liability if bidders are not able to avail fiscal incentives and this will not have any bearing on the applicable tariff. SJVN does not however, give a representation on the availability of fiscal incentive and submission of bid by the bidder

shall be independent of such availability or non-availability as the case may be of the fiscal incentives.

1.1.8 No separate Central Financial Assistance is envisaged for implementation of the Projects selected under this RfS.

1.1.9 The minimum project capacity or contracted capacity that can be offered by the Bidder shall be **50 MW** and the maximum project capacity shall be **300 MW**. The total cumulative project capacity to be awarded under this RfS shall be 600 MW.

A Bidder, including its Parent, Affiliate or Ultimate Parent or any Group Company shall submit a single bid offering a minimum project capacity of **50 MW** and a maximum quantum of **300 MW**, in the prescribed formats. **The project capacity shall be quoted in multiple of 10 MW only.**

1.1.10 Project Capacity or Contracted Capacity in MW is the Maximum Power Output (AC) from the Wind Power Project which can be scheduled at the Delivery Point / Inter-Connection point during any time block of the day. **A bidder can offer projects at multiple locations subject to each project has minimum capacity of 50 MW.**

Note: In case a common Company/Companies directly or indirectly hold(s) more than 10% but less than 26% shareholding in more than one Bidder participating in the RfS, each of such Bidders will be required to submit the Disclosure as per Format 7.8A. In all other cases, Format 7.8 will be applicable.

1.1.11 The Wind projects already under construction, yet to be commissioned, or commissioned but selling wind power on a short-term merchant basis may also be considered for selection under this tender. However, this is subject to the condition that these projects have not been accepted under any State or Central Scheme, do not have an obligation to sell power to any beneficiaries, and comply with the provisions of this RfS document. In such case they will be given the benefit for a longer period of PPA commensurate to the duration between the actual date of commencement of supply of power and schedule commencement of supply date (SCSD). A partial capacity of Wind Power Plants for which PPA has not been signed can also be offered by the bidder subject to meeting minimum offered capacity requirement of 50 MW.

1.1.12 The bidders will be selected by the process of e-bidding (Single Stage Two Envelope Bidding Process. Envelope-I: Technical Bid and Envelope-II: Financial Bid) for selection of bidders. For conducting electronic tendering, SJVN is using the portal <https://www.bharat-electronictender.com> (i.e. ETS Portal) of M/s ISN Electronic Tender Services Ltd. The portal is also referred to as Electronic Tender System® (ETS).

1.2 INVITATION FOR BIDS:

On behalf of SJVN Limited (SJVN/Renewable Energy Implementation Agency (REIA)), ONLINE e-Tender Enquiry under Single Stage Two Envelope Bidding Process (Technical Bid & Financial Bid) are hereby invited from the Wind Power Developers (WPDs) who are meeting the Qualification Requirements (QR) stipulated at Section IV for **“Selection of Wind Power Developers for setting up of 600 MW ISTS-connected Wind Power Projects in India under Tariff-Based Competitive Bidding”** on Build-Own-Operate(BOO) basis. SJVN shall enter

into a Power Purchase Agreement (PPA) with the successful Bidder(s) selected based on this RfS for purchase of Wind Power for a period of 25 years based on the terms & conditions and provisions of the RfS and PPA. The standard PPA document is available for download from ISN-ETS portal <https://www.bharat-electronictender.com> and SJVN's website www.sjvn.nic.in.

1.3 BID INFORMATION SHEET:

Sr. No.	Description	
1.	RfS No.	SJVN/CC-Delhi/REIA/2024/WIND-2
2.	RfS Date	19.04.2024
3.	Name of Work	Selection of Wind Power Developers for setting up of 600 MW ISTS-connected Wind Power Projects in India under Tariff-Based Competitive Bidding, on Build-Own-Operate (BOO) basis.
4.	Mode of Tender	Open e-Tender (Single Stage two Envelope system).
5.	Document Fee/Cost of RfS Document (Non-refundable)	Amount: INR 29,500/- (Indian Rupees Twenty-Nine Thousand Five Hundred Only) including GST to be submitted through NEFT/ RTGS transfer in the account of SJVN, along with the response to RfS.
6.	Bid Processing Fee	Rs. 15 Lakh + 18% GST for each Project, to be submitted through NEFT/RTGS transfer in the account of SJVN, along with the response to RfS.
7.	Earnest Money Deposit (EMD)	Amount: INR 12,64,000/- (Indian Rupees Twelve Lakh and Sixty-Four Thousand only) per MW per Project subject to maximum 20 crore to be submitted in the form of Bank Guarantee along with the response to RfS.
8.	Performance Bank Guarantee	As per the RfS document.
9.	Document available for downloading	As per NIT on ISN-ETS portal.

Sr. No.	Description	
10.	Date and Venue of Pre-Bid Meeting	09.05.2024 at 11:00 Hrs Venue: Conference Room, SJVN Ltd., 6th Floor, Tower No.1, Office Block, NBCC Complex, East Kidwai Nagar, New Delhi-110023 (In case of change in venue, the same shall be intimated separately OR through Video Conferencing (Link will be provided on the designated website prior to the Pre-bid meeting.)
11.	Last Date and Time for submission of Online Bids	12.06.2024 till 18:00 Hrs
12.	Last Date and Time for submission of Hard Copy of Documents	17.06.2024 by 18:00 Hrs
13.	Date & Time of Opening of Technical Bid.	18.06.2024 at 15:00 Hrs
14.	Date & Time of Opening of Price Bids.	Shall be intimated to technically qualified bidders.
15.	e-Reverse Auction	Will be informed to eligible bidders. Date and time of e-RA shall be intimated through email.
16.	Period of Bid Validity	12 months from the last date of submission of online bids.
17.	CONTACT DETAILS OF ISN- ETS PORTAL	M/s ISN Electronic-Tender Services Pvt. Ltd., Gurugram Contact Person: ISN-ETS Support Team Customer Support: +91-124-4229071, 4229072 (From 10:00 Hrs to 18:00 Hrs on all working Days i.e. Monday to Friday, except Govt.Holidays) Email: support@isn-ets.com

1.4 AVAILABILITY OF RFS DOCUMENT:

- 1.4.1** The detailed RfS Document shall be available on the ISN-ETS Portal (<https://www.bharat-electronictender.com>) and on SJVN's website www.sjvn.nic.in (Home Page Tender Management (under Quick Links at the Bottom of Home Page) Location New Delhi). The Notice Inviting RfS shall also be available on CPP portal i.e. <http://eprocure.gov.in/cppp/>.
- 1.4.2** It is mandatory to download official copy of the RfS Document from Electronic Tender System (ISN-ETS) Portal to participate in the RfS.
- 1.4.3** In case of any Clarification (s)/ Amendment(s)/Addendum (s)/Corrigendum (s) to this RfS document, the same shall be issued on the websites www.sjvn.nic.in and ISN-ETS Portal

(<https://www.bharat-electronictender.com>). However, in case of any discrepancy, the information available on ISN-ETS website shall prevail.

1.4.4 Bidders are requested to remain updated for any notices/ amendments/ clarifications etc. to the RfS document through the above referred websites <https://www.bharat-electronictender.com> and www.sjvn.nic.in. No separate notifications shall be issued for such notices/ amendments/ clarifications etc. in the print media or any other media individually. Intimation regarding notification on the above shall be updated on www.sjvn.nic.in and the details will be available only from <https://www.bharat-electronictender.com>.

1.5 BID SUBMISSION:

1.5.1 A Single Stage, Two-Envelope Bidding Procedure will be adopted and will proceed as detailed in the RfS Documents. Bidding will be conducted through the competitive bidding procedures as per the provisions of this RfS. The respective rights of SJVN and the Bidder/WPD shall be governed by the RfS Documents/Agreement signed between SJVN and the WPD for the package.

1.5.2 Interested bidders have to necessarily register themselves on the e-tendering portal <https://www.bharat-electronictender.com> (“ETS portal”) through M/s Electronic Tender.com (India) Pvt Ltd to participate in the bidding under this invitation for bids. It shall be the sole responsibility of the interested bidders to get themselves registered at the aforesaid portal for which they are required to contact M/s Electronic Tender.com (India) Pvt. Limited, New Delhi to complete the registration formalities. Contact details of ISN-ETS is mentioned on the Bid Information Sheet. All required documents and formalities for registering on ISN-ETS are mentioned in the subsequent RfS documents.

1.5.3 Any bidder, who meets the Qualification Requirements stipulated in Section-IV and wishes to submit bid against this RfS, may download the complete RfS document along with its amendment(s) and clarifications if any, from ISN-ETS Portal (<https://www.bharat-electronictender.com>) and submit their Bid complete in all respect as per terms & conditions of RfS Document on or before the due date of bid submission.

1.5.4 For proper uploading of the bids on the ETS portal, it shall be the sole responsibility of the bidders to apprise themselves adequately regarding all the relevant procedures and provisions as detailed in the portal as well as by contacting M/s Electronic Tender.com (India) Pvt. Limited (ETI) directly, as and when required, for which contact details are also mentioned on the Bid Information Sheet. SJVN in no case shall be responsible for any issues related to timely or properly uploading/ submission of the bid in accordance with the relevant provisions of the Bidding Documents.

1.5.5 Bidders are required to submit their bids strictly as per terms & conditions of the RfS documents and not to stipulate any deviations/ exceptions.

1.5.6 Bidders should submit their bid proposal complete in all respect on or before last date and time of Bid Submission as mentioned on ISN-ETS Portal (<https://www.bharat-electronictender.com>), SJVN website <http://www.sjvn.nic.in> and as indicated in the Bid Information Sheet.

1.5.7 Bidder shall submit its bid/proposal along with non-refundable RfS Document Fees & Bid Processing Fees and Earnest Money Deposit (EMD) complete in all respect as per the Bid Information Sheet. Bid proposals received without the prescribed Document Fees, Bid Processing Fees and EMD will be rejected. In the event of any date indicated being declared a holiday, the next working day shall become operative for the respective purpose mentioned herein.

1.5.8 Not Used

1.5.9 SJVN reserves the right to cancel/ withdraw/ defer this invitation for bids/RfS process at any stage without assigning any reason whatsoever and shall bear no liability whatsoever consequent upon such a decision. No bidder/indenting bidder shall have any claim arising out of such action.

1.5.10 SJVN has issued this RfS in the capacity of “Intermediary Procurer” as defined in the Guidelines. SJVN may develop a suitable monitoring mechanism, to analyze the performance of the project and carry out random checks to verify compliance of quality standards and WPDs shall provide all necessary support in this respect.

1.6 For any enquiry/ clarification regarding this tender enquiry, the bidder may contact:

1. Sh. Prateek Sharma, Deputy Manager (C&P), Contact No. +91-11-61901953 & +919599205851
2. Sh. N. N. Rahul, Senior Manager (REIA), Contact No. +91-11-61901946 & +91-9430296123
3. Sh. Pramod Behera, Senior Manager (REIA), Contact No. +91-11-61901930 & +91-9816613666
4. Sh. Manish Kanth, Deputy General Manager (C&P), Contact No. +91-11-61901906 & +91-9418084303

1.7 CONTACT DETAILS OF ISN- ETS PORTAL

M/s Electronic Tender.com (India) Pvt. Ltd. Gurugram

Contact Person: ISN-ETS Support Team,

Customer Support: +91-124- 4229071, 4229072

(From 10:00 Hrs to 18:00 Hrs on all working Days i.e. Monday to Friday except Govt. Holidays) Email: support@isn-ets.com

1.8 RFS INVITING AUTHORITY

Deputy General Manager,

Contracts & Procurement Section, REIA,

SJVN Ltd., 6th Floor, Tower No. 1,

NBCC Office Complex, East Kidwai Nagar,

New Delhi-110023, Ph. No.: +011-61901953

E-mail: contracts.reia@sjvn.nic.in

Visit us at: www.sjvn.nic.in

Registered Office: SJVN Ltd., CHQ, Shakti Sadan, Shanan, Shimla -171006 (H.P.)

Corporate Identification Number: L40101HP1988GOI008409

-----END OF SECTION-----

SECTION II: DEFINITIONS

SECTION-II: DEFINITIONS

Following terms used in the documents will carry the meaning and Stions as describedbelow:

- 2.1** "ACT" or "ELECTRICITY ACT, 2003" shall mean the Electricity Act, 2003 and shall include any modifications, amendments, and substitution from time to time.
- 2.2** "AFFILIATE" shall mean a company that, directly or indirectly,
- i) controls, or
 - ii) is controlled by, or
 - iii) is under common control with, a company developing a Project or a Member in a Consortium developing the Project and control means ownership, directly or indirectly, of more than 50% (fifty percent) of the voting shares of such company or right to appoint majority Directors to the Board of Directors.
- 2.3** "APPROPRIATE COMMISSION" shall mean as defined in the PPA.
- 2.4** NOT USED
- 2.5** NOT USED
- 2.6** "BID" or "PROPOSAL" shall mean the documents submitted by the Bidder towards meeting the Technical and financial qualifying requirements, along with the Price Bid/Financial Bid submitted by the Bidder and all documents/credentials/attachments /annexures etc. submitted by the Bidder as part of its response to the RfS issued by SJVN.
- 2.7** "BIDDER" shall mean Bidding Company (including a foreign company) or a Bidding Consortium submitting the Bid. Any reference to the Bidder includes Bidding Company/ Bidding Consortium, Member of a Bidding Consortium including its successors, executors and permitted assigns and Lead Member of the Bidding Consortium jointly and severally, as the context may require; foreign companies participating in the bidding process shall be registered as companies as per the rules of their country of origin.
- 2.8** "BIDDING CONSORTIUM" or "CONSORTIUM" shall refer to a group of Companies that collectively submit the response in accordance with the provisions of this RfS under a Consortium Agreement.
- 2.9** "BID CAPACITY" shall mean aggregate project capacity of the Wind Power Project(s) as proposed by the Bidder.
- 2.10** "BUYING ENTITY" shall mean an End Procurer as defined in the Guidelines.

2.11 “CAPACITY UTILIZATION FACTOR or CUF” shall have the same meaning as provided in CERC (Terms & Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2020 as amended from time to time. However, for avoidance of any doubt, it is clarified that the CUF shall be calculated on the Capacity at the “Delivery / Inter-connection / Metering Point.

For illustration, CUF shall be calculated based on the annual energy injected and metered at the Delivery Point. In any Contract Year, if ‘X’ MWh of energy has been metered out at the Delivery Point for ‘Y’ MW Project capacity, $CUF = (X \text{ MWh} / (Y \text{ MW} * 8766)) * 100\%$.

It may be noted that in the above illustration, the capacity ‘Y’ MW shall refer to the Contracted Capacity in terms of the PPA.

2.12 “CHARTERED ACCOUNTANT” shall mean a person practicing in India or a firm whereof all the partners practicing in India as a Chartered Accountant(s) within the meaning of the Chartered Accountants Act, 1949.

For bidders incorporated in countries other than India, “Chartered Accountant” shall mean a person or a firm practicing in the respective country and designated/ registered under the corresponding Statutes/ laws of the respective country.

2.13 “COMPANY” shall mean a body corporate incorporated in India under the Companies Act, 1956/2013 or any law in India prior thereto relating to Companies, as applicable.

2.14 “COMMERCIAL OPERATION DATE (COD)” shall mean the date as defined in Clause 6.14 of the RfS.

2.15 “COMMENCEMENT OF SUPPLY OF POWER DATE (CSD)” shall mean the actual date of supply of power of the contracted capacity subsequent to COD as defined in Clause 6.14 of the RfS.

2.16 “CONTRACTED CAPACITY” shall mean the AC capacity in MW contracted with SJVN for supply by the WPD to SJVN at the Delivery Point from the Project, based on which the PPA is executed with SJVN.

2.17 “CONTRACT YEAR” shall mean the period beginning from the Effective Date of the PPA and ending on the immediately succeeding 31st March and thereafter each period of 12 months beginning on 1st April and ending on 31st March provided that:

- i) in the financial year in which the Scheduled Commencement of Supply of Date (SCSD) of contracted capacity would occur, the Contract Year shall end on the date immediately before the SCSD and a new Contract Year shall commence once again from the SCSD and end on the immediately succeeding 31st March, and thereafter each period of 12 (Twelve) Months commencing on 1st April and ending on 31st March, and
- ii) provided further that the last Contract Year of this Agreement shall end on the last day of the Term of this Agreement.

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

2.19 “**CONTROLLING SHAREHOLDING**” shall mean more than 50% of the voting shares of the Company or right to appoint majority Directors.

2.20 “**CENTRAL TRANSMISSION UTILITY (CTU)**” shall mean the Central Transmission Utility as defined in sub-section (10) of section 2 of the Electricity Act 2003.

2.21 “**DAY**” shall mean calendar day.

2.22 “**EFFECTIVE DATE**” shall mean the date of signing of PPA.

2.23 “**EQUITY**” shall mean Net Worth as defined in the Companies Act, 2013.

2.24 “**FINANCIAL CLOSURE**” or “**PROJECT FINANCING ARRANGEMENTS**” means arrangement of necessary funds by the WPD towards 100% Project Cost either by way of commitment of funds by the Company from its internal resources and/or tie up of funds through a bank/ financial institution by way of sanction of a loan or letter agreeing to finance.

2.25 “**GUIDELINES**” shall mean the Guidelines for Tariff Based Competitive Bidding Process for procurement of power from Grid Connected Wind Projects” issued by the Ministry of New and Renewable Energy vide F. No 27/01/2023-RCM dated 28.07.2023, including subsequent amendments and clarifications thereto, if any, issued until the last date of bid submission of this RfS.

2.26 “**GROUP COMPANY**” of a Company means

- i) a Company which, directly or indirectly, holds 10% (Ten Percent) or more of the share capital of the Company or;
- ii) a Company in which the Company, directly or indirectly, holds 10% (Ten Percent) or more of the share capital of such Company or;
- iii) a Company in which the Company, directly or indirectly, has the power to direct or cause to be directed the management and policies of such Company whether through the ownership of securities or agreement or any other arrangement or otherwise or;
- iv) a Company which, directly or indirectly, has the power to direct or cause to be directed the management and policies of the Company whether through the ownership of securities or agreement or any other arrangement or otherwise or;
- v) a Company which is under common control with the Company, and control means ownership by one Company of at least 10% (Ten Percent) of the share capital of the other Company or power to direct or cause to be directed the management and policies of such Company whether through the ownership of securities or agreement or any other arrangement or otherwise;

Provided that a financial institution, scheduled bank, foreign institutional investor, Non-Banking Financial Company, and any mutual fund, pension funds and sovereign funds shall not be deemed to be Group Company, and its shareholding and the power to direct or cause to be directed the management and policies of a Company shall not be considered for the purposes of this definition unless it is the Project Company or a Member of the Consortium developing the Project.

- 2.27 “INTER-CONNECTION POINT/ DELIVERY/ METERING POINT”** shall mean a single point or multiple points at 220kV or above, where the power from the Project(s) is injected into the ISTS Substation (including the transmission line connecting the 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 WPDs shall abide by the relevant CERC/SERC Regulations, Grid Code and Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended and revised from time to time.
- 2.28 “INTERMEDIARY PROCURER”** shall mean a trader who shall aggregate the power purchased from different RE Projects and sell it to the distribution licensee(s).
- 2.29 “InSTS”** means Intra-State Transmission System.
- 2.30 “ISTS”** means Inter-State Transmission System
- 2.31 “INTERESTED PARTIES”** shall mean a situation where control is equally distributed among interested parties in the Group Company or Bidding Consortium.
- 2.32 “JOINT CONTROL”** shall mean a situation where a company has multiple promoters (but none of the shareholders has more than 50% of voting rights and paid-up share capital).
- 2.33 “LEAD MEMBER OF THE BIDDING CONSORTIUM” or “LEAD MEMBER”:** There shall be only one Lead Member, having the shareholding of not less 51% in the Bidding Consortium.
- Note: The shareholding of the Lead member in the Project Company (Special Purpose Vehicle) cannot be changed until 01 (ONE) year after the SCSD of the contracted capacity.
- 2.34 “LETTER OF AWARD” or “LoA”** shall mean the letter issued by SJVN to the selected Bidder for award of the Project.
- 2.35 “LIMITED LIABILITY PARTNERSHIP” or “LLP”** shall mean a Company governed by Limited Liability Partnership Act 2008 or as amended.
- 2.36 “LLC”** shall mean Limited Liability Company.
- 2.37 “MEMBER IN A BIDDING CONSORTIUM” or “MEMBER”** shall mean each Company in a Bidding Consortium. In case of a Technology Partner being a member in the Consortium, it has to be a Company.
- 2.38 “MONTH”** shall mean calendar month.
- 2.39 “NET-WORTH”** shall mean the Net-Worth as defined section 2 of the Companies Act, 2013.
- 2.40 “PAID-UP SHARE CAPITAL”** shall mean the paid-up share capital as defined in Section 2 of the Companies Act, 2013.
- 2.41 “PARENT”** shall mean a Company, which holds more than 50% voting rights and paid-up share capital, either directly or indirectly in the Project Company or a Member in a Consortium developing the Project.

2.42 Not Used.

2.43 Not Used.

2.44 **“POOLING SUBSTATION/POOLING POINT”** shall mean a point where more than one 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 WPD(s) to get connected to the ISTS substation. The voltage level for such common line shall be 220 kV or above. Further, the metering of the pooled power shall be done at the injection point, i.e. the ISTS 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.

2.45 **“PGCIL”** or **“POWERGRID”** shall mean Power Grid Corporation of India Limited.

2.46 **“PPA”** shall mean the Power Purchase Agreement signed between the successful Bidder and SJVN according to the terms & conditions of the standard PPA enclosed with this RfS.

2.47 **“PSA”** shall mean the Power Sale Agreement signed between SJVN and Buying Entity according to the terms & conditions of the standard PSA enclosed with this RfS.

2.48 **“PROJECT”/“ WIND POWER PROJECT”/ “POWER PROJECT”** shall mean the Wind power generation facility owned by the WPD, having a single point of injection into the grid at Interconnection/ Delivery/ Metering Point, or in case of sharing of transmission lines, by separate injection at Pooling Point and having control systems and metering. Each project must also have separate boundary, control systems and metering. The Project shall include all units/ modules and auxiliaries and associated facilities, bay(s) for transmission system in the switchyard, 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 to SJVN.

Notwithstanding above Wind Power Plants at multiple locations with combined single ISTS connectivity shall be considered as a single project.

2.49 **“PROCURER”** shall mean, as the context may require, the End Procurer as defined in the Guidelines, or the Authorized Representative(s) or an Intermediary Procurer.

2.50 **“PROJECT CAPACITY”** shall mean the maximum AC capacity at the Delivery Point that can be scheduled on which the Power Purchase Agreement shall be signed. It is to be noted that prior to commencement of supply of power under the PPA, the installation and commencement of power supply from the corresponding committed rated capacity of Wind components as declared in the PPA, will be verified by SJVN.

- 2.51 “PROJECT 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 RfS/PPA.
- 2.52 “PROJECT DEVELOPER” or “DEVELOPER” or “WIND POWER DEVELOPER(WPD)/ “WIND POWER GENERATOR (WPG)”/ “GENERATOR”** shall mean the Bidding Company or a Bidding Consortium participating in this bid and having been selected and allocated a Project capacity by SJVN (through a competitive bidding process), including the SPV formed by the selected bidder/ consortium for the purpose of setting up of the Project and signing of PPA with SJVN under this RfS.
- 2.53 “PROJECT SITE”** shall mean any and all parcels of real property, rights-of-way, easements and access roads, upon which the Project and its related infrastructure will be located.
- 2.54 “PROMOTER”** shall mean Promoter as defined in the Companies Act, 2013.
- 2.55 “RfS” or “RfS DOCUMENT” or “BIDDING DOCUMENT(S)” or “TENDER DOCUMENTS”** shall mean this “Request for Selection” document issued by SJVN vide RfS No. SJVN/CC-Delhi/REIA/2024/WIND-2 dated 19.04.2024 including standard Power Purchase Agreement and standard Power Sale Agreement along with subsequent clarifications and amendments thereof (if any).
- 2.56 “SJVN”** shall mean SJVN Limited.
- 2.57 “SCHEDULED COMMENCEMENT-OF-SUPPLY DATE (SCSD)”** shall mean in relation to the contracted capacity or the part of the contracted capacity shall mean the date(s) corresponding to the date of commencement of supply quoted in the RfS (Request for Selection), indicated in Clause 6.8.2.
- 2.58 “SELECTED BIDDER” or “SUCCESSFUL BIDDER”** shall mean the Bidder selected pursuant to this RfS to set up the Project and supply electricity as per the terms of PPA.
- 2.59 Not Used**
- 2.60 “SPARE CAPACITY”** shall mean that capacity of Wind project that is unencumbered from any power supply commitments or power purchase agreements and is available for augmenting the proposed Wind power under this RfS.
- 2.61 “STATE TRANSMISSION UTILITY” or “STU”** shall mean the Board or the Government Company notified by the respective State Government under Sub-Section I of Section 39 of the Electricity Act, 2003.
- 2.62 “TOE”** shall mean Tender Opening Event.
- 2.63 “TRADING MARGIN”** shall mean the margin on sale of Wind power to State Utilities/ Discoms/ other Bulk Consumers under this RfS being charged by SJVN and shall be @ INR 0.07/kWh.

2.64 “**ULTIMATE PARENT**” shall mean a Company, which owns more than 50% (Fifty Percent) voting rights and paid-up share capital, either directly or indirectly in the Parent and Affiliates;

2.65 “**WIND PROJECT**” or “**WIND POWER GENERATING SYSTEM/ STATION**” shall mean the Wind Power Project that uses wind for direct conversion of wind energy into electricity through Wind turbine generator.

2.66 “**WEEK**” shall mean calendar week.

----- **END OF SECTION** -----

SECTION - III
INSTRUCTION TO BIDDERS

SECTION III: INSTRUCTIONS TO BIDDER

3.1 Obtaining RfS Documents

Interested bidders must download the official copy of RfS Document & other documents after login into the ISN-ETS portal by using the Login ID & Password created on ISN-ETS during registration (Refer Annexure - B). The bidder shall be eligible to submit/upload the bid document only after logging into the ISN-ETS portal and downloading the official copy of RfS. If only free copy of RfS documents is downloaded from ETS portal or RfS documents are downloaded **without confirmation or without generating official copy serial number, then the bidders will not be able to submit the bids.** For further assistance, please contact ETS help desk at +91 124-4229071, 124-4229072. Transfer of RfS documents downloaded by one intending bidder to another is not permitted.

3.2 Cost of Documents & Bid Processing Fees

3.2.1 Prospective Bidders interested to participate in the bidding process are required to submit their Project proposals in response to this RfS document along with a non- refundable RfS document fee and processing fee as mentioned in the Bid Information Sheet. A Bidder will be eligible to participate in the bidding process only on submission of entire financial amounts as per the **Bid Information Sheet**. Payments against Cost of RfS document and Bid Processing Fee shall be done only through NEFT/RTGS (electronic transfer), and the Bidder shall submit the transaction receipt, as part of the online bid submission.

The bank details of SJVN are as follows:

Account Name: SJVN REIA

A/c No: 42326206137

Name of Bank: STATE BANK OF INDIA

Branch: South extension part – II, M Block, New Delhi 110049

IFSC Code: SBIN0003219

While carrying out online transfer, Bidders shall ensure to intimate the details of payment of processing fees and Tender fee through email to Employer's mail id: contracts.reia@sjvn.nic.in and upload the details on ETS portal (Technical Bid Part) in the following format:

Declaration for Payment of Tender Fee & Processing Fees

Tender Search Code:

Bidder Name:

UTR Reference of Tender Fee

UTR Reference of Processing Fee

Amount of Tender fee:

Amount of Bid Processing fee:

Date of Transfer:

Transferor Bank:

Bank Account No.:

Bank IFSC Code:

(Signature of Bidder with Seal

- 3.2.2 In case a Bidder chooses to deduct TDS while making the payments against cost of RfS and/Bid Processing Fee, such TDS details shall be submitted by the Bidder along with the transaction details, as part of online bid submission.
- 3.2.3 Bids submitted without cost of the RfS document and/or Bid Processing Fee and/or Bank Guarantee/Payment on Order Instrument towards Earnest Money Deposit (EMD) (including partial submission of any one of the respective amounts), may be liable for rejection by SJVN.
- 3.2.4 In case a Bidder has paid cost of RfS document and Bid Processing Fee for this RfS and chooses not to participate in the bidding process (i.e. the Bidder does not submit any of the online or offline bid documents to SJVN), the respective amounts paid to SJVN against Bid Processing Fee only will be refunded without any interest payment, to the respective Bidder.
- 3.2.5 MSMEs (Micro, Small and Medium Enterprises) registered under NSIC/DIC/Udyog Aadhar Only are exempted from submission of Cost of RfS Document, Bid Processing Fee & Earnest Money Deposit (EMD). For a Consortium to be eligible for exemption from submission of Cost of RfS document, Bid Processing Fee & Earnest Money Deposit, all the members of the Consortium shall be registered as MSME.

3.3 Content of RfS Document:

The RfS Documents shall comprise the documents listed below along with Standard Power Purchase Agreement (PPA) and Standard Power Sale Agreement (PSA) and any Amendment/Addendum/Corrigendum/Clarification/Errata issued in accordance with Clause 3.6, if any.

- i) Section I: Invitation for Bids
- ii) Section II: Definitions
- iii) Section III: Instruction to Bidders
- iv) Section IV: Eligibility Criteria
- v) Section V: Bid Evaluation and Selection of Bidders
- vi) Section VI: Conditions of Contract
- vii) Section VII: Forms & Formats for Bid Submission

3.4 Cost of Bidding:

The Bidder shall be responsible for all the costs associated with the preparation of the response to RfS and participation in discussions and attending pre-bid meeting(s) etc. SJVN shall not be responsible in any way for such costs, regardless of the conduct or outcome of the bid process.

3.5 Pre-Bid Meeting

A Pre-Bid Meeting with prospective bidders will be held on the date and venue mentioned at Clause 1.3 of Section I of this RfS Document. Wherever the bidder finds any discrepancy, omission, ambiguity or conflict in or among the documents issued or be in doubt as to their meaning and interpretation; such matter should be called to the attention of the RfS Inviting Authority, in writing either by email or by post and it must be received to RfS Inviting Authority latest by one day before the scheduled date of pre bid meeting up to 18:00 Hrs. Enquiries/clarifications may be sought by the Bidder in the following format on email ID: contracts.reia@sjvn.nic.in

Sr. No.	Clause no. of RfS	Provision of RfS	Query of bidder

The bidders are required to submit the queries in MS Word file also.

SJVN will make effort to respond to the same in the Pre-Bid Meeting to be held as mentioned in the Bid Information Sheet. A compiled list of such questionnaire and SJVN's response will be uploaded in the ISN-ETS portal <https://www.bharat-electronictender.com>. and www.sjvn.nic.in. Verbal clarifications & information given by SJVN or their employees(s) or their representative(s) shall not be in any way binding on SJVN. Any modification to the RfS Documents that may become necessary because of the pre-bid Clarifications shall be made by SJVN through the issue of an Addendum/Corrigendum/Amendment/Clarification pursuant to clause 3.6. SJVN shall not be obliged to respond to any request for clarification received later than the above period. Further, mere request for clarification from the Bidders shall not be a ground for seeking extension in the deadline for submission of bids.

3.6 Amendments to RfS Document

- 3.6.1 At any time prior to the deadline for submission of Bids, SJVN may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder(s), modify the RfS documents/ Standard PPA/Standard PSA by issuing Addendum/ Corrigendum/ Amendment/Clarification and the same shall be available on the ISN-ETS portal <https://www.bharat-electronictender.com> and SJVN's website www.sjvn.nic.in. No press note will be released in this regard. Therefore, the Bidders are advised to visit the above referred sites regularly before deadline for submission of proposal.
- 3.6.2 All such Addendum/Corrigendum/Amendment/Clarification shall form integral part of this RfS Document. SJVN shall bear no responsibility or liability arising out of non-receipt of the above in time by the Bidders.

3.7 Language of Bids:

The Bids prepared by bidders and all correspondences and documents relating to the Bid exchanged by the Bidder(s) and SJVN shall be in English. Supporting documents and printed literature furnished by the Bidders with their bids may be in another language, provided they are accompanied with a certificate of the authorized translator certifying therein an accurate translation of the relevant passages in the above stated language, in which case, for the purposes of interpretation of the Bid, the translation shall prevail.

3.8 Bid Currencies:

The bidder shall indicate the entire bid price in INDIAN RUPEES only.

3.9 Validity of the Response to RfS:

The Bidder shall submit the response to RfS which shall remain valid up to 12 months from the last date of submission of response to RfS ("Bid Validity"). SJVN reserves the right to reject any response to RfS which does not meet the aforementioned validity requirement.

3.10 Earnest Money Deposit (EMD):

- 3.10.1 **Earnest Money Deposit (EMD) of INR 12,64,000/-** (Indian Rupees Twelve Lakh and Sixty-Four Thousand only) per MW per Project subject to maximum 20 crore in the form of Bank Guarantee according to Format 7.3A and valid for 12 months from the last date of bid submission, shall be submitted by the Bidder along with their bid, failing which the bid shall be

summarily rejected. The Bank Guarantees towards EMD have to be issued in the name of the Bidding Company/ Lead Member of Bidding Consortium. In the event of encashment of EMD, the encashed amount shall include all applicable taxes. Electronic Bank Guarantee (e-BG) is also acceptable against EMD under this RfS.

3.10.2 The Bidder shall furnish the Bank Guarantees towards EMD from any of the Scheduled Commercial Banks as listed on the website of Reserve Bank of India (RBI) and amended as on the date of issuance of bank guarantee. Bank Guarantee issued by foreign branch of a Scheduled Commercial Bank is to be endorsed by the Indian branch of the same bank or State Bank of India (SBI).

3.10.3 The EMD shall be valid as per the timelines stipulated above. However, shortfall in the EMD validity, if any, up to a period of seven (7) days shall be acceptable. Further, an additional shortfall shall be acceptable only if bidder has submitted the EMD with validity as per original bid submission date or as per any revised submission date and if the deadline for submission of bids has been extended further, the Bid Guarantee shall be acceptable provided, the EMD is submitted in accordance with original bid submission date stipulated above and Bidder submits the EMD extension for the requisite period within seven days from the date of actual bid submission, if required.

3.10.4 SJVN has agreed to accept the EMD in the form of an unconditional and irrevocable Bank Guarantee instead of the cash deposit with the clear position intimated to the bidder that the EMD Bank Guarantee shall be encashable for being appropriated by SJVN in terms of the guarantee as in the case of appropriation of the cash deposit lying with SJVN.

3.10.5 **Payment on Order Instrument (POI):** As an alternative to submission of EMD as above, the Bidder also has an option to submit a letter of undertaking issued by either of the following three organizations, viz. (i) Indian Renewable Development Agency Limited (IREDA) or (ii) Power Finance Corporation Limited or (iii) REC Limited. This Letter of Undertaking shall be issued as “Payment on Order Instrument” (POI), wherein the POI issuing organization undertakes to pay in all scenarios under which the EMD would be liable to be encashed by SJVN within the provisions of RfS/PPA. This instrument would have to be furnished as per Format 7.3B of the RfS, within the timelines as per Clause 3.10.1 above, for the amount and validity period as per those Clause 3.10.1 above.

3.10.6 The term “Bank Guarantee (BG) towards/ against EMD” occurring in the RfS shall be read as “Bank Guarantee (BG)/ Payment on Order Instrument (POI) towards/ against EMD”

3.11 Forfeiture of EMD:

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

- a. If the bidder withdraws or varies the bid after due date and time of bid submission and during the validity of bid;
- b. In case, SJVN offers to execute the PPA with the Selected Bidder and if the Selected Bidder does not submit the requisite documents as per Clause 6.11 of the RfS or does not execute the PPA within the stipulated time-period;

- c. If after issuance of LoA, it is found that the documents furnished by the bidders as part of response to RfS are misleading or misrepresented in any way;
- d. If the bidder fails to furnish required Performance Bank Guarantee/POI in accordance with Clause 6.9 of the RfS.

3.12 Instructions to Bidders for Structuring of Bid Proposals in Response to RfS

The bidder including its Parent, Affiliate or Ultimate Parent or any Group Company shall submit single response to RfS. Detailed Instructions to be followed by the bidders for online submission of response to RfS are stated at Annexure –B Submission of bid proposals by Bidders in response to RfS shall be in the manner described below:

- i) Covering Letter as per **Format 7.1**.
- ii) In case of a Bidding Consortium, a Power of Attorney in favour of the Lead Member issued by the other Members of the Consortium shall be provided in original as per format attached hereto as **Format 7.2**.

In the event any Member of the Bidding Consortium (other than Lead Member) is a foreign entity, it may submit Board Resolutions in place of Power of Attorney for the purpose of fulfilling the requirements under this clause. However, these Board Resolutions must be supported by an unqualified opinion from the legal counsel of such foreign entity. This opinion should confirm that the Board Resolutions align with the relevant laws of the issuing company's respective jurisdictions and that the granted authorizations are authentic and valid.

- iii) Bank Guarantee against Earnest Money Deposit (EMD) as per **Format 7.3 A/7.3B**.
- iv) Board Resolutions, as per prescribed formats enclosed as per **Format 7.4** duly certified by the Company Secretary or the Director of the relevant Bidder, as applicable to the Bidder and mentioned hereunder:
 - a) Board Resolution from the Bidding Company or the Lead Member of the Consortium as the case may be, in favour of the person signing the response to RfS and in the event of selection of the Projects and to sign the PPA with SJVN. Board Resolution from each of the Consortium Members in favour of the person signing Consortium Agreement.
 - b) Board Resolution from the Bidding Company committing 100% (One Hundred Percent) of the equity requirement for the Project/ Board Resolutions from each of the Consortium Members together in aggregate committing to 100% (One Hundred Percent) of equity requirement for the Project (in case of Bidding Consortium); and
 - c) Board Resolutions from each of the Consortium Members and Lead member contributing such additional amount over and above the percentage limit (specified for the Lead Member and other member in the Consortium Agreement) to the extent becoming necessary towards the total equity share in the Project Company, obligatory on the part of the Consortium pursuant to the terms & conditions in the Consortium Agreement.
- v) In case of a Consortium, the Consortium Agreement between the Members in the Consortium as per Format 7.5 along with Board resolution from each Member of the Consortium for participating in Consortium.
- vi) Format for Financial Requirements as per Format 7.6 along with the certificate from practicing Chartered Accountant/ Statutory Auditors showing details of computation of the financial credentials of the Bidder.
- vii) Undertaking regarding no willful default and no major litigation pending as per Format 7.7.

- viii) A disclosure statement as per Format 7.8/ 7.8A regarding participation of any related companies in the bidding process.
- ix) Format for Technical Criteria as per Format 7.9 (to be filled out separately for each Project).
- x) Signed Integrity Pact between SJVN and the Bidding Company as per **Format 7.12.**
- xi) Attachments**
- a) Memorandum of Association, Article of Association of the Bidder needs to be attached along with the bid. The bidder should also highlight the relevant provision which highlights the objects relating to Power/ Energy/ Renewable Energy/ Wind Power plant development.
- In case, there is no mention of the above provisions in the MoA/ AoA of the Bidder, the same has to be amended and submitted prior to signing of PPA, if the bidder is selected as Successful bidder.
- If the selected bidder wishes to execute the project through a Special Purpose Vehicle (SPV), the MoA/ AoA of the SPV highlighting the relevant provision which highlights the objects relating to Power/ Energy/ Renewable Energy/ Wind Power plant development has to be submitted prior to signing of PPA.
- b) Certificate of Incorporation of Bidding Company/ all member companies of Bidding Consortium.
- c) A certificate of shareholding of the bidding company, its Parent and Ultimate Parent (if any) duly certified by a practicing Chartered Accountant/Company Secretary as on a date within 30 days prior to the last date of bid submission. SJVN reserves the right to seek additional information relating to shareholding in promoter companies, their parents/ ultimate parents and other group companies to satisfy themselves that RfS conditions have been complied with and the bidder will ensure submission of the same within the required time lines.
- d) Certified copies of annual audited accounts for the last three financial years, ending on 31.03.2023 or provisional accounts duly certified by a practicing Chartered Accountant (as applicable), along with certified copies of Balance Sheet, Profit & Loss Account, Schedules and Cash Flow Statement supported with bank statements as on the date at least 7 days prior to the due date of bid submission (if applicable), shall be required to be submitted.
- e) Details of all types of securities/instruments which are pending conversion into equity whether optionally or mandatorily.
- xii) Covering letter of the financial bid as per Format 7.13
- xiii) Break-up of the Preliminary Estimate of Cost of Project as per Format 7.14

3.13 Important Notes and Instructions to Bidders:

- i) Wherever information has been sought in specified formats, the Bidders shall fill in the details as per the prescribed formats and shall refrain from any deviations and referring to any other document for providing any information required in the prescribed format.
- ii) The Bidders shall be shortlisted based on the declarations made by them in relevant schedules of RfS. The documents submitted online will be verified before signing of PPA in terms of Clause 3.12 of the RfS.
- iii) If the Bidder/Member in a Bidding Consortium conceals any material information or makes a wrong statement or misrepresents facts or makes a misleading statement in its response to RfS, in any manner whatsoever, SJVN reserves the right to reject such response to RfS and/or cancel the Letter of Award, if issued, and the Bank Guarantee provided up to that stage shall be encashed. Bidder shall be solely responsible for disqualification based on their declaration in the submission of response to RfS.
- iv) If the event specified at Clause 3.13(iii) is discovered after the Effective Date of PPA, it shall be treated as “WPD Event of Default” under PPA and consequences as specified in PPA shall apply.
- v) Response submitted by the Bidder shall become the property of the SJVN and SJVN shall have no obligation to return the same to the Bidder. However, the EMDs submitted by unsuccessful Bidders shall be returned as specified in Clause 6.9.10 of the RfS.
- vi) All documents of the response to RfS (including RfS and subsequent Amendments/ Clarifications/ Addenda, PPA and PSA) submitted online must be digitally signed by the person authorized by the Board as per Format 7.4.
- vii) The response to RfS shall be submitted as mentioned in Clause 3.12 of the RfS. No change or supplemental information to a response to RfS will be accepted after the scheduled date and time of submission of response to RfS. However, SJVN reserves the right to seek additional information from the Bidders, if found necessary, during the course of evaluation of the response to RfS.
- viii) The Bidder shall make sure that the correct, valid, and operative Pass-Phrase to decrypt the relevant Bid-part is submitted into the ‘Time Locked Electronic Key Box (EKB)’ after the deadline of Bid submission, and before the commencement of the Online Tender Opening Event (TOE) of Technical bid.
- ix) All the information should be submitted in English language only. In case of foreign bidders having documents in other than English language, then the documents shall be translated in English language by certified translator and submitted.
- x) Bidders shall mention the name of the contact person and complete address and contact details of the Bidder in the covering letter.
- xi) Response to RfS that are incomplete, which do not substantially meet the requirements prescribed in this RfS, will be liable for rejection by SJVN.

- xii) Response to RfS not submitted in the specified formats will be liable for rejection by SJVN.
- xiii) Bidders delaying in submission of additional information or clarifications sought will be liable for rejection.
- xiv) Non-submission and/ or submission of incomplete data/ information required under the provisions of RfS shall not be construed as waiver on the part of SJVN of the obligation of the Bidder to furnish the said data/information unless the waiver is in writing.
- xv) The Central Electricity Regulatory Commission shall be the appropriate commission to exercise the regulatory and adjudicatory jurisdiction regarding matters between WPD and SJVN as well as SJVN and Buying Entity(ies). Subject to the above, only New Delhi Courts shall have exclusive jurisdiction in all matters pertaining to this RfS.
- xvi) All the financial transactions to be made with SJVN including success charges, delay charges (except charges for delay in Financial Closure and Payment Security Deposit), and any additional charges (if required), shall attract 18% GST on each transaction, irrespective of the same being mentioned in the RfS/PPA.
- xvii) The bid shall be signed by a person duly authorized to sign on behalf of the Bidder. The bid should be serially numbered and properly indexed mentioning all constituents of bid including any enclosures/attachments etc. and their location page numbers in the bid. Failure to submit the bid in systematic manner as above may result oversight of any important information provided by the bidder for which SJVN shall not be responsible.
- xviii) The Bid shall contain no overwriting, alterations, omissions, or additions, unless such corrections are initiated by the person(s) signing the Bid. Corrections if any shall only be made by scoring out the cancelled portion, writing the correction, initiating and dating it by the person(s) signing the Bid.
- xix) All witnesses and sureties shall be persons of status and their full names, occupations and addresses shall be stated below their signatures.
- xx) Please note that bids in any other mode including Email shall not be entertained under any circumstances.
- xxi) Only Delhi Courts shall have exclusive jurisdiction in all matters pertaining to RfS.

3.14 Method of Submission of Response to RfS by the Bidder:

3.14.1 Documents to be Submitted Offline (in Original):

- i) The bidder has to submit original of following documents offline.
 - a) Bank Guarantee towards EMD as mentioned in the Bid Information Sheet (as per Format 7.3A/7.3B). One EMD may be submitted for the cumulative capacity quoted by the bidder.
 - b) Duly Signed Integrity Pact between SJVN and the Bidding Company (Scanned version of the format, duly signed by SJVN's authorized signatory, is available on the

ETS portal as addendum to the RfS).

c) Pass-phrases for Technical bids and Financial bids submitted on the ETS portal

ii) Bank Guarantee against EMD needs to be submitted in both online and offline modes. The bidders will be required to submit the bank guarantee, either in person or through post, at the office of SJVN until the last date and time for submission of hard copy of document as mentioned at Cl. 1.3 of RfS and extensions of dates, if any.

Note: In all cases, the Bank Guarantee against EMD (if applicable), shall be issued on or before the bid submission deadline. These instruments issued after the expiry of the deadline will be summarily rejected.

iii) The bidding envelope shall contain the following sticker:

Selection of Wind Power Developers for Setting up of 600 MW ISTS-connected Wind Power Projects in India under Tariff-Based Competitive Bidding	
<i>Cumulative Capacity of the projects applied for</i>MW
<i>No. of Projects Bid for</i>	
<i>RfS Reference No.</i>	
<i>Submitted by</i>	<i>(Enter Full name and address of the Bidder)</i>
<i>Organization ID (OID) on ETS portal</i>	<i>(Enter the OID through which the Bid has been submitted online on ETS portal)</i>
<i>Authorized Signatory</i>	<i>(Signature of the Authorized Signatory)</i>
	<i>(Name of the Authorized Signatory)</i>
	<i>(Stamp of the Bidder)</i>
<i>Bid Submitted to</i>	Deputy General Manager (C&P), REIA SJVN Limited 6th Floor, Tower-1, NBCC Office Complex, East Kidwai Nagar, New Delhi-110023 Tel No. 011-61901906 Email – contracts.reia@sjvn.nic.in,

3.14.2 Documents to be Submitted Online

Detailed instructions to be followed by the Bidders for online submission of response to RfS are stated at Annexure-B. The bidders shall strictly follow the instructions mentioned in the electronic form in respective Technical Bid and financial bid while filling the forms.

If the Bidder has submitted bid online and fails to submit the Bank Guarantee against EMD for requisite amount offline, until the last date and time for submission of hard copy of document as mentioned at Cl. 1.3 of RfS and extensions of dates, if any, then the same shall be treated as incomplete bid and Cost of RfS, Processing fee submitted at this stage will be encashed and the EMD(s) shall be returned and the submitted bid will stand cancelled.

All documents of the response to RfS submitted online must be digitally signed and uploaded on the website, <https://www.bharat-electronictender.com> which should contain the following:

I. Technical Bid (First Envelope)

The Bidder shall upload single Technical Bid containing **scanned copies** of the following documents duly signed and stamped on each page by the authorized signatory as mentioned below.

- a) Formats - 7.1, 7.2 (if applicable), 7.3 A/ 7.3 B, 7.4, 7.5 (if applicable), 7.6, 7.7, 7.8/7.8A, 7.9, 7.10 and 7.12 elaborated in Clause 3.12 of the RfS.
- b) All attachments elaborated in Clause 3.12 of the RfS, under the sub-clause xi: Attachments, with proper file names.
- c) All supporting documents regarding meeting the eligibility criteria.
- d) Scanned Copies of NEFT/RTGS details towards Cost of RfS Document and Bid Processing Fee as mentioned in Bid Information Sheet.
- e) Scanned copies of requisite amount of Bank Guarantee/ Payment on Order Instrument towards EMD as mentioned in the Bid Information Sheet.
- f) The Bidder will have to fill the Electronic Form provided at the ISN-ETS portal as part of Technical Bid.
- g) Submission of Pass-phrases: In line with Clause 3.13 (viii) and Annexure-B, the Bidder shall be required to submit the Pass-Phrase to decrypt the relevant Bid-part is submitted into the 'Time Locked Electronic Key Box (EKB)' after the deadline of Bid submission, and before the commencement of the Online Tender Opening Event (TOE) of Techno-commercial bid.

II. Financial Bid (Second Envelope)

1. Bidders shall submit the single Financial Bid containing the scanned copy of following document(s):
 - (a) Covering letter as per Format - 7.13 of the RfS.
 - (b) Preliminary Estimate of Cost of RE Power Project for supply of contracted capacity of Wind Power, as per Format 7.14 of the RfS.
2. The financial bid shall be submitted online, in the format as per the Electronic Form on the ISN-ETS portal.

Only a single tariff bid for the contracted capacity applied for, shall have to be filled online in the Electronic Form provided at the ISN-ETS portal. The instructions mentioned in the Financial Bid Electronic Form have to be strictly followed without any deviation, else the bid shall be considered as non-responsive.

Important Note:

- (a) The Bidders shall not deviate from the naming and the numbering formats of envelopes

mentioned above, in any manner.

- (b) In each of the envelopes, all the documents enclosed shall be indexed and flagged appropriately, with the index list indicating the name of the document against each flag.
- (c) All the envelopes shall be properly sealed with the signature of the Authorized Signatory running across the sealing of the envelopes.
- (d) In case the Bidder submits the online documents on ISN-ETS within the bid submission deadlines and fails to submit the offline documents in the office of SJVN within the bid submission deadlines, the online bid of the Bidder shall not be opened and shall be 'archived' on the ISN-ETS portal. Similarly, bids submitted offline but without any online submission on ISN-ETS portal shall not be opened and the EMD shall be returned to the respective bidder.
- (e) **In case of submission of Bank Guarantee against EMD/POI on online portal on or before the bid submission deadline, and non-submission of the hard copy of the Bank Guarantee to SJVN within the timeline specified for submission of hardcopy of the documents, its bid shall be rejected and not considered for further evaluation.**

3.15 Deadline for Submission of Bids:

- 3.15.1 Complete Bid must be uploaded at the ISN-ETS portal. The documents to be submitted offline as per Clause 3.14.1 must be received by SJVN at the address of RfS Inviting Authority not later than the last date and time for submission of hardcopy of documents offline as stipulated in the RfS document/ ISN-ETS portal. The date and time for online submission of the bids shall continue to be the date and time as specified in the RfS document or any subsequent amendment for the same. In the event of the specified date for the submission of bids being declared a holiday for SJVN, the hard copy of documents/offline submission will be received up to the specified time on the next working day.
- 3.15.2 SJVN may, in exceptional circumstances and at its discretion, extend the deadline for submission of bids by issuing an Addendum in accordance with Clause 3.6, in such case all rights and obligations of SJVN and the bidders previously subject to the original deadline will thereafter be subject to the deadline as extended.

3.16 Late Bids:

Online submission of the bid will not be permitted on the portal after expiry of submission time and the bidder shall not be permitted to submit the same by any other mode. Similarly, hard copies of the OFFLINE documents, if received by SJVN Ltd after the deadline for submission as prescribed in RfS document/ ISN-ETS portal, then it will be considered as 'Late Bid' and shall be considered non-responsive and shall be summarily rejected notwithstanding the fact that the bidder has uploaded the bid online within the stipulated deadline.

3.17 Modification, Substitution and Withdrawal of Bids

- 3.17.1 The Bidder may modify, substitute, or withdraw his bid after its submission but in any case, before the deadline for submission of bids.
- 3.17.2 Any alteration/ modification in the Bid or additional information supplied unless solicited by SJVN after expiry of last date and time of submission of bids shall be disregarded.

3.17.3 Withdrawal of a Price Bid during the interval between the deadline for submission of Bids and expiration of the period of Bid validity specified in Clause 3.9 shall not be permitted and appropriate action may be taken by SJVN as per provisions mentioned in the Bid Security Declaration submitted by the Bidder.

3.18 Bid Opening

3.18.1 Initially, the Technical Bid shall be opened on the scheduled date, time and location stipulated in the RfS Document.

3.18.2 The Price Bid shall be opened only of those bidders whose Technical Bid are found Technically qualified. Financial Bids of the Bidders whose Bids not found Technically qualified shall not be opened and shall not be considered at all any further.

3.18.3 If it happens to be a holiday or due to any other technical reasons like non-availability of the Committee Members etc. on the day of opening of the tender, the Bids shall be opened on next working day at the same time.

3.18.4 SJVN Ltd shall not be responsible if online bid could not be opened within reasonable time for whatsoever reason. In such a case, the bid shall remain unopened on the portal and shall not be considered at all any further.

3.19 Clarification on Bids:

To assist in the examination, evaluation, and comparison of bids, SJVN may, at its discretion, ask any bidder for clarification of its Bid. The request for clarification and the response shall be through e-mail but no change in the price or substance of the bid shall be sought, offered, or permitted except as required to confirm the correction of arithmetical errors discovered by the SJVN in the evaluation of the Bids. All such responses submitted by the Bidder shall form part of their bid.

3.20 Evaluation of Bids and selection of Bidder:

The evaluation of Bids and selection of successful Bidders shall be carried out as per the procedure and methodology stipulated in Section V of this RfS Document.

3.21 Right of SJVN to Reject a Bid:

SJVN reserves the right to reject any or all of the responses to RfS or cancel the RfS or annul the bidding process for any project at any stage without assigning any reasons whatsoever and without thereby any liability. In the event of the tender being cancelled at any stage, the processing fee (excluding GST, if amount credited to SJVN's account), without any interests, and EMD submitted by the Bidders shall be returned to the respective Bidders.

3.22 Post Award Compliances:

Timely completion of all the milestones i.e. signing of PPA, meeting Financial Closure Requirements/Conditions Subsequent (PPA), Commissioning etc. will be the sole responsibility of WPD. SJVN shall not be liable for issuing any intimations/ reminders to WPDs for timely completion of milestones and/ or submission of compliance documents.

Any checklist shared with WPD by SJVN for compliance of above-mentioned milestones to be considered for the purpose of facilitation only. Any additional documents required as per the conditions of Guidelines, RfS and PPA must be timely submitted by the WPD.

3.23 Pre-Contract Integrity Pact:

To improve transparency and fairness in the tendering process, SJVN is implementing Integrity Pact. Integrity Pact is deemed as part of the contract so that the prospective bidders are bound by its provisions.

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The Integrity Pact, signed by all the prospective Bidders and SJVN, shall commit the persons/officials of both the parties, not to exercise any corrupt /fraudulent/collusive/coercive practices in the Tendering process and during implementation of the Contract. Only those Bidders who have entered into Integrity Pact with SJVN shall be eligible to participate in the bidding process. Bidders signing Integrity Pact shall not approach the Courts while representing the matters to IEMs and he/she will await their decision in the matter Entering into Integrity Pact as per Performa enclosed in the Tender Document is a basic qualifying requirement.

In case of JV, each partner of JV shall sign Integrity Pact with SJVN. In case of sub-contracting, the Principal Consultant shall be responsible for adoption of Integrity Pact by the sub-Consultant. To oversee the compliance of obligation under the Integrity Pact, Independent External Monitor(s)(IEMs) have been appointed by SJVN. The details are as under:

Sl. No.	Name of IEMs	Address of IEMs
1.	Sh. Manoj Pant, IFoS (Retd.)	House no. 70, Usha Colony, Sahastradhara Road, Dehradun-248013 (Uttarakhand), Email- mpant2007@gmail.com

The Integrity Pact duly signed on behalf of SJVN is given in Section VII: Forms & Format. The Integrity Pact along with its Annexure -A (Guidelines on banning of business dealings) and Undertaking (FORM OF DECLARATION OF ELIGIBILITY) enclosed in the RfS Document shall be downloaded, printed and signed by the bidder and the same will be submitted with Bid.

The successful bidder shall submit duly executed Integrity Pact on Non-Judicial stamp paper of appropriate value prior to signing of Contract Agreement.

3.24 Corrupt or Fraudulent Practices

It is expected from the Bidders that they will observe the high standard of ethics during the bidding process and Construction of such Contracts. In pursuance of this policy:

1. For the purpose of this provision, the terms set-forth below shall mean as under:
 - a. “Corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party
 - b. “Fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation
 - c. “Collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - d. “Coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - e. “Obstructive practice” is deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation.
2. A Bid shall be rejected by SJVN if it is determined at any stage that respective Bidder has engaged in corrupt or fraudulent or Collusive or Coercive practices or obstructive practice in executing the Contract in question and his Bid Security shall be forfeited. The Bidder shall not be entitled for any compensation whatsoever under this clause.
3. SJVN may declare a bidder ineligible, either indefinitely or for a stated period of time, to be awarded a Contract if it at any time determines that the bidder has engaged in corrupt or fraudulent or collusive or coercive practices in competing for, or in executing a Contract.
4. The documents/information submitted by Bidder/Contractor may be verified by the officials of SJVN for its authenticity at any time and the Bidder/Contractor shall provide all facilities/co-operation in this regard. If it is found that any of the documents/information submitted by the Bidder/Contractor is not genuine, SJVN shall have full rights to cancel his Bid, forfeit the bid security and terminate the Contract, if awarded.

-----END OF SECTION-----

**SECTION IV:
ELIGIBILITY CRITERIA**

SECTION IV: ELIGIBILITY CRITERIA

4.0 Bidder must meet the following Qualification Requirements:

4.1 General Eligibility Criteria

Bidders participating in the RfS will be required to meet the following eligibility criteria (as applicable).

- 4.1.1 The Bidder shall be a Company as defined.
- 4.1.2 Bidding Consortium with one of the Companies as the Lead Member. Consortium shortlisted and selected based on this RfS must necessarily form a Project Company and get it registered under the Companies Act, 2013 prior to signing of PPA, keeping the original shareholding of the Bidding Consortium unchanged. In case applications for multiple Projects have been made by a Consortium, separate Project Companies can be formed for each Project. For the avoidance of doubt, it is hereby clarified that the shareholding pattern of the Project Company shall be the identical to the shareholding pattern of the Consortium as indicated in the Consortium Agreement (Format 7.5).
- 4.1.3 A foreign company can also participate on standalone basis or as a member of consortium at the RfS stage. In case of foreign company participating on standalone basis and its selection as successful Bidder, it must form a “Special Purpose Vehicle” (SPV), i.e. an Indian Company registered under the Companies Act, 2013 as its subsidiary Company, with at least 51% shareholding in the SPV, before signing of PPA. In case a Foreign Company is selected as the successful Bidder, it shall comply with all the laws and provisions related to Foreign Direct Investment in India. In case the foreign company participating as a member of consortium, Clause 4.1.7 of the RfS shall be applicable.
- 4.1.4 In line with the O.M. issued by the Department of Expenditure, Ministry of Finance, vide No. 7/10/2021-PPD(1) dated 23.02.2023 and subsequent amendments and clarifications thereto, the Bidder shall meet the following criteria for its bid to be considered for evaluation under the RfS.
- i) Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority (as defined in the OM as referred above).
 - ii) Any Bidder (including an Indian Bidder) who has a Specified Transfer of Technology (ToT) arrangement with an entity from a country which shares a land border with India will be eligible to participate in this RfS only if the Bidder is registered with the Competent Authority under the referred OM.
 - iii) “Bidder” in this reference, means any person or firm or company, including any member of a consortium, every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in this tender.

- iv) “Bidder from a country which shares a land border with India” for the purpose of this clause, means:
- a) An entity incorporated, established or registered in such a country; or
 - b) subsidiary of an entity incorporated, established or registered in such a country; or
 - c) An entity substantially controlled through entities incorporated established or registered in such a country; or
 - d) An entity whose beneficial owner is situated in such a country; or e) An Indian (or other) agent of such an entity; or
 - e) A natural person who is a citizen of such a country; or
 - f) A consortium where any member of the consortium falls under any of the above.
- v) “Beneficial owner” for the purposes of Clause 4.1.4(iv)-(d) above will be as defined in the referred OM, including subsequent amendments and clarifications thereto.
- vi) In support of the above, the Bidder shall be required to submit necessary Undertaking, as per Format 7.8/7.8A of the RfS.
- vii) Other provisions of the referred OM dated 23.02.2023, except Sl. 17 of the OM, will also be applicable for this tender. Any interpretation of the above clauses will be made in line with the referred OM, including subsequent amendments and clarifications thereto.

4.1.5 Limited Liability Partnership (LLPs) firms are not eligible for participation.

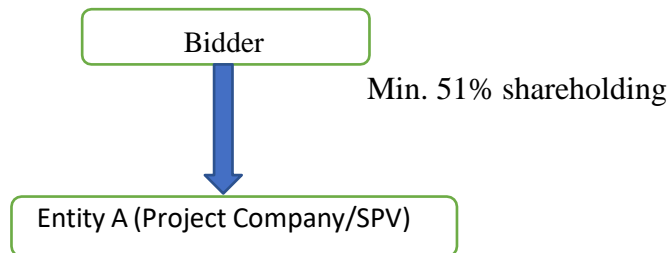
4.1.6 A Bidder which has been selected as Successful Bidder based on this RfS can also execute the Project through a Special Purpose Vehicle (SPV) i.e. a Project Company especially incorporated/acquired as a subsidiary Company of the successful bidder for setting up of the Project, with at least 51% shareholding in the SPV which must be registered under the Indian Companies Act, 2013, before signing of PPA. Multiple SPVs may also be utilized for executing more than one Project.

4.1.7 Any consortium, if selected as Successful Bidder for the purpose of supply of power to SJVN, shall incorporate a Project company with equity participation by the Members in line with consortium agreement (to be submitted along with the response to RfS) before signing of PPA with SJVN, i.e. the Project Company incorporated shall have the same shareholding pattern as that indicated in the Consortium Agreement given at the time of submission of response to RfS. This shall not change till the signing of PPA and thereafter the combined shareholding of the Consortium Members in the SPV/Project Company shall not fall below 51% at any time prior to 01 (one) year from the SCSD, except with the prior approval of SJVN.

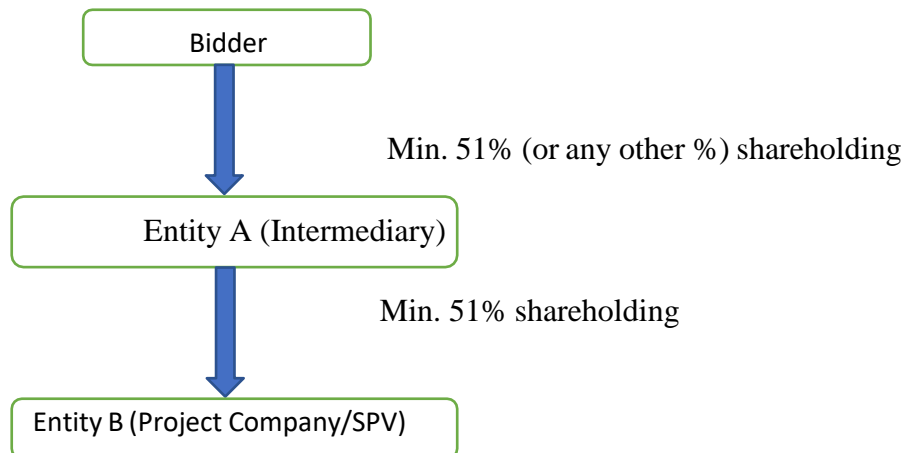
4.1.8 The Bidder or any of its Affiliates should not be a willful defaulter to any lender, and the Bidder & any of its Affiliate including any Consortium Member & any of its Affiliate, their directors should not have been barred or included in the blacklist by any government agency or authority in India, the government of the jurisdiction of the Bidder or Members where they are incorporated or the jurisdiction of their principal place of business, any international financial institution such as the World Bank Group, Asian Development Bank, African Development Bank, Inter-American Development Bank, Asian Infrastructure Investment Bank etc. or the United Nations or any of its agencies. **The Bidder shall submit an undertaking to this effect. In the event the WPD is in default to the lender(s), lenders shall be entitled to undertake “Substitution of Promoter” in concurrence with the Procures,**

4.1.9 For avoidance of doubt, it is clarified that the fully owned subsidiary Company as mentioned in Clauses 4.1.3 and 4.1.6 above should be an immediate subsidiary of the bidder, without any intermediaries involved. The following illustrations are provided to clarify the same.

Scenario 1:



Scenario 2:



As per the RfS, only Scenario 1 is permissible in case of projects being implemented by SPVs.

4.2 Technical Eligibility Criteria

- 4.2.1 Under this RfS, it is proposed to promote only commercially established and operational technologies to minimize the technology risk and to achieve timely commencement of power supply from the Projects.
- 4.2.2 In order to ensure only quality systems are installed, and in order to bring-in advantage of latest development/Models, the type certified wind turbine models listed in Revised List of Models and Manufactures (RLMM) issued by MNRE as updated until the SCSD of the projects will be allowed for deployment under the Scheme.
- 4.2.3 The Projects shall also comply with the criteria for power supply as detailed in Clause 6.7 of the RfS.

4.2.4 The Projects shall also comply with the criteria for power supply as detailed in Clause 6.7 (Power Supply by the WPD) of the RfS.

4.3 Financial Eligibility Criteria

4.3.1 Net-Worth

- i) The Net Worth of the Bidder should be equal to or greater than **INR 1,26,40,000/MW** (Indian Rupees One Crore Twenty-Six Lakhs and Forty Thousand/MW) of the quoted capacity, as on the last date of previous Financial Year, i.e. FY 2023-24 or as on the day at least 7 days prior to the bid submission deadline.

In case the audited Annual accounts for FY: 2023-24 or for the period during FY 2023-24 for which Net Worth is submitted, is not available, bidder(s) shall submit Net Worth Certificate from a practicing Chartered Accountant/Statutory Auditor to demonstrate fulfilment of above criteria.

- ii) The net worth to be considered for the above purpose will be the cumulative net-worth of the Bidding Company or Consortium, together with the Net Worth of those Affiliates of the Bidder(s) that undertake to contribute the required equity funding and PBG/POI in case the Bidder(s) fail to do so in accordance with the RfS.
- iii) Net Worth to be considered for this clause shall be the total Net Worth as calculated in accordance with the Companies Act, 2013 and any further amendments thereto.

4.3.2 Liquidity

In order to ascertain that the Bidder has sufficient means to manage the fund requirements for the Project, the Bidder shall be required to demonstrate at least one of the following parameters:

- i) A minimum average annual turnover of **Rs. 1.896 Crores/MW (Rs. 1,89,60,000/MW)** of the quoted capacity during the last three Financial years ending on 31.03.2024, which should be evidenced by Audited Balance Sheet along with Profit & Loss account or a certificate issued by a practicing Chartered Accountant. In case the audited Annual accounts for FY: 2023-24 is not available, bidders shall submit Annual turnover certificate for FY: 2023-24 from a practicing Chartered accountant/Statutory Auditor to demonstrate fulfillment of above criteria. It is hereby clarified that “Other Income” as indicated in the annual accounts of the Bidder shall not be considered for arriving at the annual turnover.
- ii) Internal resource generation capability, in the form of Profit Before Depreciation Interest and Taxes (PBDIT) for a minimum amount of **INR 37.92 Lakhs /MW (Rs.37,920,000/MW)** of the quoted capacity, as on the last date of previous FY, 2023-24. In case the audited Annual accounts for FY: 2023-24 is not available, bidders shall submit PBDIT Certificate from a practicing Chartered Accountant/Statutory Auditor to demonstrate fulfilment of above criteria.
- iii) In-principle sanction letter from the lending institutions/ banks of the Bidder, committing a Line of Credit for a minimum amount of **INR 79.00 Lakhs/MW (Rs.79,00,000/MW)** of the quoted capacity, towards meeting the working capital requirement of the project quoted

under this RfS. Such letter can also be obtained by the Affiliate(s) of the Bidder.

4.3.3 The Bidder may seek qualification based on financial capability of its Affiliate(s) for the purpose of meeting the qualification requirements as per Clauses 4.3. 1 and 4.3.2 above. In case of the Bidder being a Bidding Consortium, any Member may seek qualification based on financial capability of its Affiliate(s). In such cases, the Bidder shall be required to submit Board Resolutions from the respective Affiliate(s), undertaking to contribute therequired equity funding and Performance Bank Guarantees/POI in case the Bidder(s) fail to do so in accordance with the RfS. In case of non-availability of the Board Resolution as required above, a letter from the CEO/Managing Director of the respective Affiliate(s), undertaking the above, shall be required to be submitted and the requisite Board Resolution from the Affiliate(s) shall be required to be submitted prior to signing of PPA.

4.3.4 For the purposes of meeting financial requirements, only latest unconsolidated audited annual accounts shall be used. However, audited consolidated annual accounts of the Bidder may be used for the purpose of financial requirements provided the Bidder has at least twenty six percent (26%) equity in each Company whose accounts are merged in the audited consolidated account and provided further that the financial capability of such Companies (of which accounts are being merged in the consolidated accounts) shall not be considered again for the purpose of evaluation of any other response to this RfS.

4.3.5 A Company/Consortium would be required to submit annual audited accounts for the last three financial years ending on 2023-24, along with net worth, annual turnover and PBDIT certificate (as applicable) from a practicing Chartered Accountant/Statutory Auditor to demonstrate fulfilment of the criteria. In case of foreign companies, the Bidders shall be required to submit the annual audited accounts for the last respective financial years as per the general norm in the country where the Bidder or its Affiliate(s) is/ are located.

Note: In case of foreign Bidders, in the event the Bidder is unable to furnish the audited annual accounts for the previous financial year as per the prevalent norm in the respective country, the Bidder shall submit the annual audited accounts of the last three financial years for which the audited accounts are available excluding previous financial year. This, however, would be acceptable, subject to the condition, that the last date of response to this RfS falls on or within the deadline for completion of audit of annual accounts of companies, as stipulated by the laws/rules of the respective country, and the Bidder shall submit the corresponding documentary evidence against the same. In case the annual accounts are submitted in a language other than English, a certified English translation from an approved translator shall be required to be submitted by the Bidder.

4.3.6 For meeting the above financial eligibility criteria, if the data is provided by the Bidder in a foreign currency, equivalent Indian Rupees of Net Worth and other financial parameters will be calculated by the Bidder using Reserve Bank of India's reference rates prevailing on the date of closing of the accounts for the respective financial year.

4.3.7 In case of any currency for which RBI reference rate is not available, Bidders shall convert such currency into US Dollar (USD) as per the exchange rates certified by their banker prevailing on the relevant date and used for such conversion. After such conversion, Bidder shall follow the procedure/ submit document as elaborated above.

4.3.8 In case the response to RfS is submitted by a Consortium, then the financial requirement (both the Net-Worth and Liquidity requirements) to be met by each Member of the Consortium shall be computed in proportion to the equity commitment made by each member in the Project Company.

For example, if two companies A and B form a Consortium with equity participation in 70:30 ratio and submit their bid for a capacity of 250 MW, then, total Net-Worth to be met by the Consortium is Rs. 1.74 Crores x 250MW = Rs. 435.00 Crores. Minimum requirement of Net-Worth to be met by Lead Member A would be minimum Rs. 304.50 Crores and to be met by Consortium Member B would be Rs. 130.50 Crores. Similar methodology shall be followed for computation of liquidity requirement

Note: Wherever applicable, audited accounts for the last three financial years ending on 31.03.2024 will be required to be submitted for meeting the qualification requirements. In case the audited Annual accounts for FY: 2022-23 is not available, bidder shall submit Certificates issued by a practicing CA/Statutory Auditor for FY: 2022-23

----- **END OF SECTION** -----

SECTION: V

**BID EVALUATION AND SELECTION
OF BIDDERS**

SECTION V: BID EVALUATION AND SELECTION OF BIDDERS

5.0 Bid Evaluation and Selection of Successful Bidders:

Bid evaluation will be carried out considering the information furnished by Bidders as per provisions of this RfS. The detailed evaluation procedure and selection of bidders are described in subsequent clauses in this Section.

5.1 Evaluation of Technical Bids (Step 1)

5.1.1 The first envelope (Technical Bid submitted online) of only those bidders will be opened whose required documents as mentioned in the RfS are received by SJVN. Bid opening (online) will be done only after the deadline for submission of Bank Guarantee of EMD.

5.1.2 Documents (as mentioned in the previous clause) received after the bid submission deadline specified in the Bid Information Sheet shall be rejected and returned unopened, if super- scribed properly with address, to the bidder.

5.1.3 SJVN will examine all the documents submitted by the Bidders and ascertain meeting of eligibility conditions prescribed in the RfS. During the examination of the bids, SJVN may seek clarifications/additional documents to the documents submitted etc. from the Bidders if required to satisfy themselves for meeting the eligibility conditions by the Bidders. Bidders shall be required to respond to any clarifications/additional documents sought by SJVN within 07 (seven) days from the date of such intimation from SJVN. All correspondence in this regard shall be made through email/ISN-ETS portal only. It shall be the responsibility of the Bidder to ensure that the email id of the authorized signatory of the Bidder is functional. The Bidder may provide an additional email id of the authorized signatory in the covering letter. No reminders in this case shall be sent. It shall be the sole responsibility of the Bidders to remove all the discrepancies and furnish additional documents as requested. SJVN shall not be responsible for rejection of any bid on account of the above.

5.1.4 The response to RfS submitted by the Bidder shall be scrutinized to establish Techno-Commercial eligibility as per the RfS.

5.1.5 Determination of responsiveness

i) SJVN will examine the Techno-commercial Bids to determine whether they are complete, whether EMD/Bid Security Declaration, RfS Document Fee (if required) have been furnished, whether the bidder has submitted supporting certificates/documents justifying the qualifications/requirements, whether the documents have been properly signed, whether all the requisite declaration, undertakings have been furnished and whether the Technical bids are in order. SJVN may waive any minor informality, non-conformity or irregularity in a bid that does not constitute a material deviation and that does not prejudice or affect the relative ranking of any Bidder as a result of the evaluation of Bids, pursuant to these Clauses.

ii) Prior to the detailed evaluation, the SJVN will determine whether each Bid is of

acceptable quality, is complete and is substantially responsive to the RfS Document. For purposes of this determination, a substantially responsive Bid is one that conforms to all the terms & conditions and specifications of the RfS Document without material deviations, objections, conditionality, or reservations. A material deviation, objection, conditionality or reservation is one (i) that affects in any substantial way the scope, quality or performance of the Contract; (ii) that limits in any substantial way, inconsistent with the RfS Document, SJVN's rights or the successful Bidder's obligations under the Contract; or (iii) whose rectification would unfairly affect the competitive position of other Bidders who are presenting substantially responsive bids.

- iii) If a Bid is not substantially responsive, it will be rejected by the SJVN, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.

5.1.6 Non-Responsive Bid

The electronic response to RfS submitted by the bidder along with the documents submitted online to SJVN shall be scrutinized to establish "Responsiveness of the bid". Each bidder's response to RfS shall be checked for compliance with the submission requirements set forth in this RfS. Any of the following conditions shall cause the Bid to be "non-responsive":

- (a) Non-submission of the requisite Cost of RfS and/or Bid Processing Fee as mentioned in the Bid Information Sheet.
- (b) Response to RfS not received by the due date and time of bid submission
- (c) Non-submission of correct, valid and operative Pass-Phrases for both Technical and Financial Bid (Price Bid) Parts after the deadline of Bid Submission, and before the commencement of the Online Tender Opening Event (TOE) of Technical Bid
- (d) Any indication of tariff in any part of response to the RfS, other than in the financial bid.
- (e) Non-submission of payment details against Cost of RfS and Bid Processing Fee.
- (f) Data filled in the Electronic Form of Financial Bid (Second Envelope), not in line with the instructions mentioned in the same electronic form.
- (g) Except for the scenario as per Clause 5.1 above, in case it is found that the Bidding Company including Ultimate Parent Company/ Parent Company/Affiliate/Group Companies have submitted more than one response to this RfS, then all these bids submitted shall be treated as non-responsive and rejected.
- (h) Non-submission or partial submission of EMD in acceptable form along with response to RfS.
- (i) In any of the above cases, the bid shall not be considered for bid opening and evaluation process. Further, in case of (h), such bidder will be debarred from participating in any of the tenders issued by SJVN, for a period of 6 (six) months, starting from the last date of bid submission of this RfS.

5.2 The Bidder(s) shall be declared as technically qualified provided that their bids are substantially responsive and meet the requirements mentioned at Section-IV: Eligibility Criteria and other terms & conditions as specified in this tender document. The Financial Bids of only those Bidders will be opened who are Technically qualified as per the criteria mentioned above.

5.3 Financial Bid Evaluation (Step 2)

5.3.1 In this step evaluations of Technically Qualified Bids shall be done based on the “First Round Tariff”, quoted by the Bidder in the Electronic Form of Financial Bid.

5.3.2 Second Envelope (containing First Round Tariff) of only those bidders shall be opened whose technical bids are found to be qualified as per the RfS.

5.3.3 The Bidder including its Parent, Affiliate or Ultimate Parent or any Group Company will have to submit a single bid (single application) quoting a single tariff in Indian Rupee per kWh for the offered quantum of power applied for. The tariff has to be quoted in Indian Rupee per kWh up to two places of decimal only. If it is quoted with more than two digits after decimal, digits after first two decimal places shall be ignored. (For e.g. if the quoted tariff is INR 2.337, then it shall be considered as INR 2.33).

5.3.4 In this step, evaluation will be carried out based on tariff quoted by Bidders.

5.3.5 On completion of technical bid evaluation, if it is found that only one or two Bidder(s) is/are eligible for the next stage, opening of the financial bid of the Bidder(s) will be at the discretion of SJVN. Thereafter, SJVN will take appropriate action as deemed fit.

5.3.6 If the first-round tariff quoted is same for two or more Bidders, then all the Bidders with same tariff shall be considered of equal rank/ standing in the order.

5.3.7 Not Used

5.3.8 Ranking of bidders after Financial Bid Evaluation: Following illustrates an example of ranking of bidders after financial bid opening and evaluation.

Bidder	Submitted Financial Bid	Ranking
B1	₹ 2.10 (Tariff in ₹/ kWh)	L1
B2	₹ 2.20 (Tariff in ₹/ kWh)	L2
B3	₹ 2.30 (Tariff in ₹/ kWh)	L3
B4	₹ 2.30 (Tariff in ₹/ kWh)	L3
B5	₹ 2.43 (Tariff in ₹/ kWh)	L4
B6	₹ 2.60 (Tariff in ₹/ kWh)	L5
B7	₹ 2.65 (Tariff in ₹/ kWh)	L6
B8	₹ 2.69 (Tariff in ₹/ kWh)	L7
B9	₹ 2.70 (Tariff in ₹/ kWh)	L8

5.4 Reverse Auction (Step-3)

5.4.1 The reverse auction for the total tendered capacity shall be conducted on the portal <https://www.bharat-electronictender.com>, on the day as intimated by SJVN to the eligible bidders. Rules of the auction process are brought out below, and are also contained in Annexure-A of the RfS. As part of submission of their response to RfS, the Bidders shall submit the scanned copy of Annexure-A of the RfS duly signed and stamped by the Authorized Signatory, as an acceptance of the provisions contained therein,

5.4.2 The total number of eligible bidders for the reverse auction shall be decided as mentioned below:

Assuming

T = Total Techno-Commercially Qualified Bidders, and

S_k = Cumulative capacity till the 'k'th serial number bidder (not the 'k'th rank bidder) after ranking is done in ascending order from L1 onwards

S_E = (Eligible capacity for award)	(i) In case $S_T \leq 600$ MW, $S_E = 0.8 \times S_T$ (ii) In case $S_T > 600$ MW, $S_E = 0.8 \times S_T$ subject to maximum eligible capacity being 600 MW.
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Total eligible Bidders for e-Reverse Auction

i. In case $(0.8 \times S_T) \leq 600$ MW: all the techno-commercially qualified bidders whose financial bids are in line with the RfS provisions, will be shortlisted for e-RA. Accordingly, the no. of bidders shortlisted for e-RA, i.e., "n" = "T".

ii. In case $(0.8 \times S_T) > 600$ MW: The lowest ranked bidder, i.e. the bidder quoting the highest tariff (the "H1 bidder") shall be eliminated at this stage, and the remaining techno-commercially qualified bidders whose financial bids are in line with the RfS provisions, will be shortlisted for e-RA.

Accordingly, the no. of bidders shortlisted for e-RA, i.e., "n" = "T"-1

Note:

(a) In case more than one bidder is ranked as "H1" bidder, i.e., such bidders are at the same tariff, all such bidders will be eliminated at this stage.

(b) The above elimination will take place subject to the condition that the total bid capacity after such elimination remains more than 600 MW and the minimum number of shortlisted bidders for e-RA, after elimination at this stage, remains 3. In the contradictory scenario, no elimination will take place at this stage.

For e.g. (Shortlisting of Bidders for reverse auction):

Scenario-1: Total bid capacity of techno-commercially shortlisted bidders = $S_T=1550$ MW

S. No.	Techno commercially qualified Bidder	Rank	Capacity (MW)	T	S_E	$(0.8x S_T)$	n	Shortlisted Bidders
1	B8	L1	300	8	600 MW	1240 MW	7*	B8
2	B5	L2	150					B5
3	B1	L3	150					B1
4	B4	L3	150					B4
5	B2	L4	150					B2
6	B3	L5	250					B3
7	B7	L6	150					B7
8	B6	L7	250					

* $n = 8-1 = 7$ as per the above formula.

Scenario-2: Total bid capacity of techno-commercially shortlisted bidders= $S_T=600$ MW

S. No.	Techno commercially qualified Bidder	Rank	Capacity (MW)	T	S_E	$(0.8x S_T)$	n	Shortlisted Bidders
1	B3	L1	150	4	480 MW	480 MW	4	B3
2	B2	L2	300					B2
3	B1	L3	50					B1
4	B4	L4	100					B4

* $n = 4$ as per the above formula

5.4.3 At least one week prior to reverse auction, an advance intimation regarding the date and time of the reverse auction will be sent by e-mail to all the bidders whose technical bids have been opened and found to be qualified. However, from this advance intimation, it shall not be construed by the bidders that they have been shortlisted for Reverse Auction. Further, at least two hours before the scheduled start time of Reverse Auction, a system generated email for invitation for Reverse Auction will be sent to all those bidders only who have been shortlisted based on the criteria mentioned at Clause 5.4.2 above.

5.4.4 Shortlisted bidders for Reverse Auction will be able to login into the ISN-ETS portal of reverse auction 15 minutes before the start time of reverse auction.

- i. During the 15 minutes prior to start of reverse auction process, the respective tariff of the bidder shall be displayed on its window.
- ii. The minimum decrement value for tariff shall be INR 0.01 per kWh. The Bidder can mention its revised discounted tariff which has to be at least 01 (One) Paisa less than its current tariff.
- iii. Bidders can only quote any value lower than their previous quoted tariff taking into consideration the minimum decrement value mentioned in the previous clause. However, at any stage, increase in tariff will not be permissible. Bidders can improve their ranking by quoting the tariff lower than their last quoted tariff.

- iv. During reverse auction, the Bidder shall not have the option of changing the total Contracted Capacity offered while quoting tariff during reverse auction.
- v. In the bidder's bidding window, the following information can be viewed by the bidder:
 - i. Its tariff as the initial start price and there after last quoted tariff along with the offered Contracted Capacity for which the Bidder is qualified.
 - ii. The list of all the Bidders with their following details: Pseudo Identity, last quoted tariff and offered Contracted Capacity.
- vi. The initial auction period will be of 30 (thirty) minutes with a provision of auto extension by 8 (eight) minutes from the scheduled/extended closing time. Such auto extension shall be affected if by way of reduction in tariff, a Bidder causes a change in its zonal placement at that instant. The 'zones' are as defined below:
 - i. Green Zone: This zone consists of the Bidders who may be allocated their full quoted Project Capacity, subject to provisions of Clause 5.5, if the auction is closed at that instant.
 - ii. Orange Zone: This zone consists of the Bidders who may be allocated a part of their full quoted Project Capacity, subject to provisions of Clause 5.5, if the auction is closed at that instant.
 - iii. Red Zone: This zone consists of the Bidders who will not be awarded their quoted Project Capacity, subject to provisions of Clause 5.5, if the auction is closed at that instant.

If no such change as described above is affected during the last 8 minutes of auction period or extended auction period, then the reverse auction process will automatically get closed.

5.5 Selection of Successful Bidders

5.5.1 Subsequent to conclusion of the e-RA process, the bidders in the "Green" and "Orange" zones as per Clause 5.4.4 (vi) above, will be listed in the increasing order of the tariffs discovered at the end of e-RA.

5.5.2 The bidders who fall within the range of (and including) the lowest tariff (L1 tariff) + 2% of the L1 tariff-hereinafter referred to as "the range"- will be declared as Successful Bidders under the RfS, subject to the following conditions:

- a. In case the cumulative capacity shortlisted as per the range exceeds S_E (capacity eligible for award as per Clause 5.5.2), the list of Successful Bidders shall be limited by S_E .
- b. In a borderline case, i.e., the scenario wherein more than one bidder is eligible to be declared as Successful Bidder at the highest tariff (the tariff at the end of the range), and the cumulative capacity exceeds S_E , time stamping of bidders shall be used to limit allocation of cumulative capacity up to S_E . In such cases, those bidders who are at the same tariff, but they are ranked lower than the ones which fall within the cumulative capacity limit of S_E , will not be eligible to be declared as Successful Bidders.

In other words, in every possible scenario, the total capacity to be awarded

under the RfS shall be limited to S_E .

- c. **Time stamping-** In case of a tie among two or more Bidders (i.e. their last quoted tariff being the same), they will be considered in the chronological order of their last quoted tariff during the e-RA with preference to be given to that Bidder who has quoted his last tariff during the e-RA, earlier than others.
- d. In the above case, if the time of quote also becomes exactly same among the Bidders in a tie, then the ranking among these Bidders shall be done as follows:
- Step 1: Highest rank will be given to the Bidder who has quoted the lowest in Financial Bid (Electronic Form) and so on. If there is also a tie among any of these bidders, then the following step (Step 2) will be followed.
 - Step 2: Ranking will be done based on draw of lots.

5.5.3 **Illustration:** Following example provides a possible illustration of the above methodology:

L1 tariff discovered after e-RA: Rs. 2.50/kWh

The range (L1+2% of L1): Rs. 2.55/kWh

Rank	Quoted Capacity (MW)	Cumulative Capacity (MW)	Time stamp	Tariff (INR/kWh)	Qualified as Successful Bidder
L1	100	100	NA	2.50	L1
L2	100	200	NA	2.51	L2
L2	50	250	NA	2.51	L2
L3	150	400	NA	2.53	L3
L4	100	500	16:00:01	2.55	L4
L4	150	650	16:00:02	2.55	L5
L4	200	850	16:00:03	2.55	---
L5	100	950	NA	2.56	---
L6	150	1100	NA	2.60	---

Note: The allocation of cumulative Contracted Capacity shall be closed at S_E . However, in no case, shall the capacity of a single Project selected under this RfS, be less than 50 MW, subject to provision of Clause 6.4 (Maximum Eligibility for Contracted Capacity Allocation for a Bidder) of the RfS. In case of the last Successful Bidder, if the balance Contracted Capacity is less than the total contracted capacity mentioned by the Bidder but greater than 50 MW, then the Project with highest preference (as mentioned in the Covering Letter) shall be awarded to the Bidder, subject to the maximum cumulative capacity not exceeding S_E , being awarded under the RfS.

In case the partial capacity offered to the last Successful Bidder as per Cl. 5.4.2 above, is lower than 50% of the total quoted capacity by such Bidder, the Bidder shall have an option to refuse such offered partial capacity, and the BG against EMD submitted by such Bidder shall be returned along with those of the unsuccessful Bidders. Such refusal shall be intimated to SJVN within 7 days of completion of e-RA and not later

than 7 days of issuance of LoAs by SJVN, failing which, the awarded capacity shall be deemed to be accepted by the said Bidder.

In case the partial capacity offered to the last Successful Bidder as per Cl. 5.4.2 above, is greater than or equal to 50% of the total quoted capacity by such Bidder, it shall be mandatory for the last Bidder to accept the partial capacity offered against its quoted capacity, subject to the total cumulative capacity awarded under the RfS not exceeding S_E . In case the last Successful Bidder refuses to accept such partial capacity offered by SJVN, the Bank Guarantee(s)/ Payment on Order Instrument(s) against EMD submitted by such Bidder shall be encashed by SJVN.

5.6 Issuance of LoAs

5.6.1 At the end of selection process, Letters of Award (LoAs) will be issued to the Successful Bidders for each Project. The LoAs shall be awarded for the Contracted Capacity as quoted by the respective Successful Bidder, or the partial Contracted Capacity, as the case may be. In case of a Consortium being selected as the Successful Bidder, the LoA shall be issued to the Lead Member of the Consortium.

5.6.2 In case SJVN is unable to find buyers/off-takers for the tariffs as discovered after the bidding process, SJVN reserves the right to annul the bid process without any financial implications to any of the parties concerned. SJVN reserves the right to cancel any or all of the bids in view of higher tariff discovered after e-RA.

5.6.3 In all cases, SJVN's decision regarding selection of Bidder through Reverse Auction or other- wise based on tariff or annulment of tender process shall be final and binding on all participating bidders.

5.6.4 In case of delay in signing of PPA by SJVN beyond the date as on 12 months subsequent to issuance of LoAs, or any further date as mutually decided by the Successful Bidder and SJVN, the Successful Bidder may choose to exit from this tender. Accordingly, the LoA issued to the respective Bidder shall stand cancelled, and the EMD submitted by such Bidder shall be returned by SJVN. In case of extension of the above PPA signing date by mutual agreement, the minimum extension in the signing date shall be 3 months subsequent to the above deadline.

-----**END OF SECTION**-----

SECTION VI:
CONDITIONS OF CONTRCAT

SECTION VI: CONDITIONS OF CONTRACT

6.1 Scope of Work

- i. Under this RfS, the Wind Power Developer (WPD) shall be required to set up ISTS connected Wind Power Projects including the transmission network up to the Interconnection/ Delivery Point, with the primary objective of supplying Wind Power to SJVN, at its own cost and as per the provisions of the RfS and PPA.
- ii. The Wind projects already under construction or yet to be commissioned or commissioned but selling Wind power on short term merchant basis may also be considered for the selection under this tender subject to the condition that these projects have not been accepted under any State or Central Scheme and also do not have obligation to sell the power to any beneficiaries and they are in compliance with provisions of this RfS documents. In such case they will be given the benefit for a longer period of PPA commensurate to the duration between the actual date of commencement of supply of power and schedule commencement of supply date (SCSD). A partial capacity of Wind Power Plants for which PPA has not been signed can also be offered by the bidder subject to meeting minimum offered capacity requirement of 50 MW.
- iii. Obtaining all clearances, permit, licenses including arrangement of land, installation and ownership of the Project, connectivity to the Grid prior to SCSD shall be under the scope of the WPD.
- iv. The Projects to be selected under this scheme provide for deployment of RE Power Projects. However, the selection of Projects would be technology agnostic.

6.2 Total capacity offered:

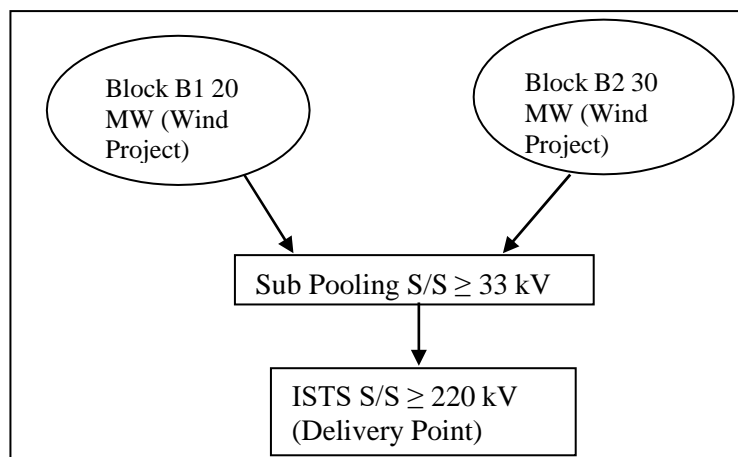
Selection of “Project Developer” or “Developer” or “Wind Power Developer (WPD)” or “Wind Power Generator (WPG) for setting up of 600 MW ISTS-connected Wind Power Projects in India will be carried out through e-bidding followed by e-Reverse Auction process.

6.2.1 Wind Power Project Configuration:

- i. The term “Project” shall have the meaning as defined in Section-II of the RfS, and shall refer to the Project capacity as quoted by the bidder (at the time of bidding)/awarded to the Bidder (after issue of LoA).
- ii. Wind Power Projects are required to be designed for interconnection with the ISTS substation at voltage level of 220kV or above.
- iii. The minimum Project size of a single Wind Power Project shall be **50 MW** to be interconnected at the Delivery Point and in multiples of **10 MW** thereafter and the aggregate capacity of Wind projects selected through this RfS will be **600MW**. The maximum capacity to be quoted by a bidder should not **exceed 300 MW**.

- iv. The capacity (in MW) quoted by the Bidders in the Covering Letter (and the LoA issued by SJVN) shall mean “Contracted Capacity.”
- v. A single Project component may however, also be sub-divided into several ‘blocks,’ being set up at multiple locations, if required. For a single Project, such ‘blocks’ shall be located within the same State. The minimum voltage level for a single block shall be 33 kV. These individual blocks shall be pooled at a minimum voltage level of 33 kV, at a ‘pooling station’. It may be noted that the said pooling station will have a different meaning than the Pooling Substation as defined in the RfS. A single transmission line shall connect the above pooling substation to the ‘sub-pooling’ substation as defined in Clause 6.6.
- vi. A single tariff shall be quoted by the Bidder for its response to RfS, irrespective of the number of Projects and each Project configuration.
- vii. A Single Power Purchase Agreement shall be signed for one Project. The WPD shall be responsible for obtaining Connectivity for each Project.
- viii. The WPD may modify the Project configuration in terms of blocks, subsequent to issuance of LoA until the SCSD. SJVN shall not be responsible for any delay in reconfiguration of the Project, which might lead to delay in achieving commencement of supply of power from the Project.
- ix. One of the possible configurations of a Project, having separate locations for each block, is illustrated below, for elaboration

Project Capacity 50 MW



- x. The WPDs shall demonstrate the rated capacity of the project(s), in line with the Commissioning procedure as notified by SJVN.

Important Note:

- 1) Bidders may note that the above configuration is for illustration purpose only and Bidders are required to design their own configuration as per their suitability/viability to meet the requirements stipulated in the RfS).
 - 2) In case of discrepancies with respect to the meaning of the terms as illustrated above, with usage of the above terms in other clauses of the RfS, the above clauses, i.e., Cl. 6.2.1 (i)-(x) of the RfS shall prevail.
- xi. The Wind project location/configuration will be submitted by the bidder at the time of bid submission, and it shall remain unchanged until the issuance of LoA. However, the successful bidder shall have option to change the Project location before the Financial Closure. Also any change in delivery point(s) is /are allowed up to Financial Closure of the Project. Provided that any extension in SCSD on account of such change (s) in configuration / delivery point / project location shall not be granted. SJVN shall not be responsible for any delay in reconfiguration of the Project, which might lead to delay in achieving commencement of supply of power from the Project. Implications of any delay in obtaining connectivity and subsequently, compliance with financial closure/commencement of supply of power on account of the above, will be borne by the WPD. However, subject to provision of Clause no. 4.2.1, the WPD is allowed to increase/install additional Wind RE generating capacity and subsequent to the above deadline/beyond SCSD for the purpose of repowering and/or increase the quantum of Renewable Energy beyond the level initially committed. In case the rated capacities of the Wind RE are increased subsequent to the above deadline/beyond SCSD and such addition of Wind Capacity leads to any additional transmission/other charges upon Procurer, as per the applicable regulations, then such additional transmission/other charges shall be borne by the WPD.

6.3 Clearances Required from the State Government and Other Local Bodies

6.3.1 The Wind Power Developers (WPDs) are required to obtain all necessary clearances and permits as required for setting up the Wind Power Projects, including but not limited to the following:

- i. No Objection (NOC) / Environmental clearance (if applicable) for the Project.
- ii. Forest Clearance (if applicable) for the land for the Project.
- iii. Approval for Water from the concerned authority (if applicable) required for the Project.
- iv. WPDs setting up projects in vicinity of Air Force bases/aerodromes, are advised to apply for necessary MoD clearances within 90 days of Effective Date of PPAs and forward the copies of application to SJVN within 07 days of filing the applications.
- v. In case of Projects being set up in the States of Gujarat & Rajasthan, the WPD shall abide by applicable Supreme Court Orders and MNRE's Guidelines on "Retrofitting of transmission lines and wind turbines to avoid bird collision in Great Indian Bustard (GIB) habitats of Rajasthan & Gujarat", vide OM No. 238/2/2019-Wind dated 22nd Feb 2019, and subsequent amendments and clarifications thereof.
- vi. Any other clearances as may be legally required, in order to establish and operate the Project

6.3.2 The above clearances, as applicable for the Project, will be required to be submitted to SJVN prior to commencement of supply of power from the Project, if sought by SJVN. In case of any of the clearances as indicated above being not applicable for the said Project, the WPD shall submit an undertaking in this regard, and it shall be deemed that the WPD has obtained all the necessary clearances for establishing and operating the Project. Any consequences contrary to the above shall be the responsibility of the WPD. The WPD shall also comply with all the laws, regulations, orders and procedures issued by the appropriate authority, applicable for setting up and implementing the Project.

6.3.3 The WPD shall be required to follow the applicable rules regarding project registration with the State Nodal Agency in line with the provisions of the applicable policies/regulations of the State where the Projects are being located. It shall be the responsibility of the WPD to remain updated about the applicable charges payable to the State Nodal Agency (SNA) under the respective State Wind Policy.

6.3.4 The WPD should apply for all the necessary approvals, permits and clearances not more than 90 days from the Effective Date of the PPA, which shall be complete in all respects, incorporating the clarifications/changes as required by the concerned authorities. The above timeline shall be adhered to, in order to examine cases where the WPD faces delay in grant of the necessary approvals and permits, for a period substantially greater than the standard period of grant of approval by the respective organizations.

6.4 Maximum Eligibility for Contracted Capacity Allocation for a Bidder

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

6.4.1 The minimum quantum of power that can be offered by the Bidder shall be **50 MW** and the maximum quantum of power shall be **300 MW**. The total cumulative capacity of power to be awarded under this RfS shall be 600 MW.

A Bidder, including its Parent, Affiliate or Ultimate Parent or any Group Company shall submit a single bid offering a minimum quantum of Contracted Capacity of 50 MW and a maximum quantum of 300 MW, in the prescribed formats. The project capacity shall be quoted in multiple of 10 MW only.

Note: In case a common Company/Companies directly or indirectly hold(s) more than 10% but less than 26% shareholding in more than one Bidder participating in the RfS, each of such Bidders will be required to submit the Disclosure as per Format 7.8A. In all other cases, Format 7.8 will be applicable.

6.4.2 The evaluation of bids shall be carried out as described in Section-V of the RfS. The methodology for Allocation of Projects is elaborated in Section-V of the RfS.

6.4.3 Subject to the exception as per Clause 6.4.1 above, multiple bids from same company including its Parent/ Ultimate Parent/Affiliates/Group Companies shall make all the bids submitted by the group invalid.

6.5 Project Location:

6.5.1 The bidders are free to locate their Wind Project(s) anywhere in India on the land to be

identified and purchased/leased by the bidder. The Projects shall be located at the locations chosen by the Bidder/WPD at its own discretion, cost, risk and responsibility.

6.5.2 Project location(s) should be chosen taking cognizance of the provision as per Clause 6.6 of the RfS.

6.5.3 The term “Wind Project” shall have the meaning as defined in Section-2 of the RfS, and shall refer to the Project capacity as quoted by the bidder (at the time of bidding)/awarded to the Bidder (after issue of LoA).

6.5.4 In case the WPD wishes to set up more than one Project, then the Projects would need to be physically identifiable with separate injection point, control systems and metering arrangement

6.5.5 **It may be noted that the offered Wind Project may be relocated by the WPD until financial closure.** Implications of any delay in obtaining connectivity and subsequently, compliance with financial closure/commencement of supply of power on account of the above, will be borne by the WPD. In case any change in project location by the WPD during the project construction period results in any modification in the GNA to be taken by the Buying Entity, any additional charges/ penalties payable by the Buying Entity in this regard shall be borne by the WPD. However, such location(s) should be chosen taking cognizance of the provision as per Clause 6.6 of the RfS.

6.6 Connectivity with the Grid at Interconnection Point/Delivery Points:

6.6.1 The Project should be designed for interconnection with the ISTS in accordance with the prevailing CERC regulations in this regard. For interconnection with the grid and metering, the WPD shall abide by the applicable Grid Code, Grid Connectivity Standards, Regulations on Communication System for transmission of electricity and other regulations/procedures (as amended from time to time) issued by Appropriate Commissions and Central Electricity Authority (CEA). Minimum voltage level for interconnection at the ISTS shall be 220 kV.

6.6.2 The responsibility of getting the ISTS connectivity shall entirely be of the WPD and shall be at the cost of the WPD, in line with applicable regulations. With such availability of transmission system being dynamic in nature, the Bidder must ensure actual availability of power injection/evacuation capacity at an ISTS substation. The transmission of power up to the point of interconnection where metering is done for energy accounting, shall be the responsibility of the WPD at its own cost. In case a WPD is required to use InSTS to bring Wind Power at ISTS point, it may do so as per rule and regulations prescribed by the respective SERC in this regard. The maintenance of transmission system up to the Interconnection Point shall be responsibility of the WPD, to be undertaken entirely at its cost and expense.

6.6.3 The arrangement of connectivity can be made by the WPD through a transmission line up to the Interconnection Point at ISTS. The entire cost of transmission including cost of construction of line, wheeling charges, SLDC/Scheduling charges, SOC, MOC, maintenance, losses etc. and any other charges from the Project up to and including at the Interconnection Point at ISTS will be borne by the WPD.

6.6.4 The WPD shall be required to follow the Detailed Procedure as issued by CERC/CTU under the General Network Access under the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022, as well as other Regulations issued by CERC/CEA as amended from time to time. It is further clarified that the Entities (WPD and Buying Entity) as indicated in

the Detailed Procedure issued under the above Regulation, will be responsible for their respective obligation as notified in the Detailed Procedure, irrespective of the provisions of the RfS, PPA and PSA.

- 6.6.5 The Bidders are free to choose the ISTS substations for Interconnection of the Project to the Grid on a pan-India basis preferably in India. While doing so, the Bidders shall apply due diligence while choosing the proposed substation, and may choose their substations from any one of the following options:
- i. Existing substations having available margin as indicated by the respective substation owner.
 - ii. Existing substations/ substations under construction where augmentation is under process or plans for augmentation have been announced.
 - iii. Substations approved under the updated plan made available by the CTU on its website, subject to availability of requisite margin for grant of connectivity.

Bids indicating substations outside the above three choices will be liable for rejection.

Note: In case Bidder has already secured connectivity at any substation (s) specified under Clause 6.6.5, bid indicating such substation(s) shall also be considered.

- 6.6.6 The transmission connectivity to the WPD may be provided by the CTU/STU, as the case may be, prior to commissioning of the project on the request of the WPD, to facilitate testing and allow flow of infirm power generated into the grid to avoid wastage of power.
- 6.6.7 Metering arrangement of each Project shall have to be adhered to in line with relevant clause of the PPA. Two or more Projects can be connected to a common pooling substation from which the pooled power can be transferred to the CTU substation through a common transmission line subject to the following conditions;
- i) Acceptance of such an arrangement by CTU/ RLDC.
 - ii) Energy injected by each Project will be recorded and jointly signed by respective WPDs and copies of the same will be submitted to SJVN/STU/CTU as required.
 - iii) The energy accounts are divided and clearly demarcated for the power supplied by the Project and are issued by the STU/SLDC/RLDC/ RPC concerned.
 - iv) In case of Pooling substation, losses in the transmission line between the Pooling substation and the ISTS substation, shall be apportioned among the WPDs who share such a Pooling arrangement, based on their monthly generation.
- 6.6.8 The WPD shall comply with CERC/SERC regulations on Forecasting, Scheduling and Deviation Settlement, as applicable and are responsible for all liabilities related to Connectivity. The scheduling of the power from the Project as per the applicable regulation shall be the responsibility of the WPD and any financial implication on account thereof shall be borne by the WPD. For deviations from schedule, the DSM (Deviation Settlement Mechanism) shall be applicable as per the prevailing regulations. The DSM charges at the generator ends shall be settled by the WPD. Total generation from the Wind projects shall follow "Must run" as per the provisions of the applicable Guidelines/ Regulations / Orders.

In order to remove potential discrepancies and ambiguities, the WPDs are hereby instructed that, as part of scheduling of power from the Project, they will be required to punch-in their respective schedules and subsequent revisions, by themselves, at the interfaces of all the RLDCs concerned for the corridor of power flow, including the RLDC of the Buying Entity/ Discom, as per the Regulations in force, under intimation to SJVN.

SJVN may facilitate in identification of any discrepancy and assist the WPD for its early rectification without any liability on SJVN. The WPD shall be solely responsible for discrepancy identification and its rectification to avoid any rejection/less payment of invoices.

6.6.9 Reactive power charges and charges against power drawn from grid as per CERC/SERC regulations, shall be payable by WPD as per provisions of PPA. Pursuant to Clause 6.6.5 above, the Buying Entity will be responsible for obtaining General Network Access (GNA), all transmission charges and losses and any other charges as applicable under the respective regulations beyond Delivery Point and up to the drawl point.

6.6.10 The WPDs will be required to apply for connectivity at the identified substation, as mentioned in the Covering Letter (Format 7.1), within 30 days of Signing of PPAs, and shall furnish copies of the application, complete in all respect, to SJVN within 15 days of date of filing of application. WPD shall also have to provide the copy of in-principle grant of connectivity, final grant of connectivity, connectivity agreement/any other agreement(s) signed with STU/CTU etc. within 15 days of issuance of letter by CTU / signing of

connectivity agreement, as the case may be, to SJVN. The WPD has to follow the timelines mentioned in the GNA regulation with respect to Connectivity. In case, connectivity has been revoked due to non-compliance of WPD, then the same may be considered as WPD's Event of Default and shall be dealt as per the provision of PPA.

6.7 Power Supply by the Wind RE Power Developer:

6.7.1 Criteria for Power Supply

- a. The procurement shall be in power (MW) terms.
- b. The declared/revised annual CUF shall in no case be less than 22 %. The Bidders will declare the annual CUF for the contracted capacity at the time of submission of response to RfS, and the WPDs will be allowed to revise the same once within first three years after Commencement of Supply of Power Date (CSD) subject to condition that the revised annual CUF shall not be less than 90 % of the CUF initially quoted by the Bidder and the revised annual CUF shall in no case be less than 22%. Thereafter, the CUF for the contracted capacity shall remain unchanged for the entire term of the PPA.

It shall be the responsibility of the WPD, entirely at its cost and expense to install such number of Wind turbines and associated equipment (including arrangement of extra land for such installation) as may be necessary to achieve the required CUF, and for this purpose WPD shall make its own study and investigation of the GHI and other factors prevalent in the area which have implication on the quantum of generation. The WPD shall maintain generation so as to achieve annual CUF within - 10% and +20% of the declared/revised value during the PPA duration of 25 years. The lower limit will, however, be relaxable by SJVN to the extent of non-supply on account of Force Majeure.

- c. The criteria as mentioned at 6.7.1 (b) above will, however, be relaxable by SJVN to the extent of non-availability of grid for evacuation which is beyond the control of the WPDs. For the first year of operation of the project, the annual CUF shall be calculated based on the first year after Commencement of Supply of Power Date (CSD) of contracted capacity. Subsequently, the annual CUF will be calculated every year from 1st April of the year to 31st March next year.
- d. The WPD shall plan the despatch of electricity and convey its availability for scheduling thereof by the SLDC or RLDC, as the case may be, and shall supply electricity in accordance with the provisions of the Grid Code and the Electricity Act, 2003.
- e. The scheduling and its punching thereof at different Regional Load Despatch Centers (RLDCs) / State Load Despatch Centers (SLDCs) (including the injecting, intervening and buyer SLDCs / RLDCs) shall be the responsibility of WPD only. The generated energy shall be dispatched through scheduling of power by the buying utility.
- f. It is to be noted that the generation schedule of Wind Power by the Procurer cannot be more than the Contracted Capacity specified in the RfS or PPA, considering the applicable losses. The Generator may, however, apply for connectivity and access (if applicable), in accordance with extant Regulations.

6.7.2 Shortfall in Wind RE Power Offered

- a. During the term of the PPA, if for any Contract Year, it is found that the WPD has not been able to supply minimum energy corresponding to the value of annual CUF within the permissible lower limit of CUF declared by the WPD, on account of reasons primarily attributable to the WPD, such shortfall in performance shall make the WPD liable to pay the liquidated damages provided in the PSA (Power Sale Agreement) as payable by SJVN to Buying Entity(ies) and shall duly pay such damages to SJVN to enable SJVN to remit the amount to Buying Entity(ies) as per criteria mentioned below at Clause 6.7.2 (b). This will, however be relaxable by SJVN to the extent of grid non-availability for evacuation, which is beyond the control of the WPD.
- b. In case of shortfall in the supply of energy corresponding to minimum CUF as specified in Clauses 6.7.1 (b), for reasons attributable to WPD, the WPD shall be liable to pay to the Procurer, penalty for such shortfall in availability and supply of energy. Penalty for not meeting supply of energy shall be equal to fifty percent of PPA tariff for the shortfall in number of units not supplied. **An illustration for determination of Liquidated Damages for the above-mentioned scenarios are mentioned in Annexure-D.**

However, this compensation shall not be applicable in events of Force Majeure identified under PPA with SJVN affecting supply of power by WPD. Such compensation as recovered from the WPD shall be passed on by SJVN to the Buying Entity.

- c. The performance criteria as per Clause 6.7.1 above shall not be applicable for the Contract Year ending on 31st March immediately after CSD of the contracted capacity.
- d. The detailed list of documents required for verification of energy supply and performance of the Projects will be intimated to the Developers subsequent to commissioning and commencement of supply of power. For each Contract Year, the above data will be required

to be submitted by the respective Developers to SJVN within 30 days after expiry of the previous Contract Year, for verification of the performance parameters for calculating applicable compensation on account of shortfall.

- e. The reference to the liquidated damages for shortfall to enable SJVN to remit the amount to buying utility(ies) and the amount being equal to the damages payable by the buying utility(ies) for not meeting RPO is only a measure of damage. It shall not be construed that the damage is payable by WPD only if the buying utility(ies) are required to pay damage for such not meeting of RPO or that the buying utility(ies) or the WPD shall be required to prove or establish such payment of damage for not meeting the RPO.
- f. WPD shall agree that the methodology specified herein above for calculation of liquidated damages payable by the WPD for shortfall in power offered is a genuine and accurate pre-estimation of the actual loss that will be suffered by SJVN. WPD 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 SJVN in each case specified under the PPA.

6.7.3 Excess Generation

In case of availability of energy more than the quantum corresponding to maximum CUF specified, WPD will be free to sell it to any other entity provided first right of refusal will vest with End Procurer(s)/SJVN. In case End Procurer(s)/SJVN purchases the excess generation, the same may be purchased at PPA tariff. WPD shall make a written request at least 3 (three) months in advance for procurement of such anticipated excess power at the applicable tariff. The Procurer(s)/ SJVN shall provide refusal within 15 days from the receipts of the request, beyond which it would be considered as deemed refusal. Excess power beyond the contracted capacity specified in PPA can be sold to any other entity by the WPD if SJVN/End Procurer does not accord written consent to purchase such power within the stipulated time after receipt of the written request from the WPD.

In order to allow optimization of operation of Wind Project, the WPD is allowed to supply power from the Wind power plant in excess of contracted capacity, to any third party or power exchange without requiring any No Objection Certificate (NOC) from the Procurer. The WPD may also sell the power which was offered on day ahead basis to the Procurer (within Contracted Capacity) but not scheduled by the Procurer, to any third party or in power exchange without requiring NOC from the Procurer. However, it may be noted that at any instance of energy supply from the Project, priority shall be accorded to meet the energy requirements as per PPA, before selling any quantum of energy in the open market. The WPD may re-power the Project at any stage, if required in order to meet the generation or availability requirement of this Project.

Any instance of third-party sale of power from the Project by the WPD, while the demand / contracted Capacity specified in the PPA remains unfulfilled, shall constitute a breach of RPD's obligations under the PPA and make the RPD liable for penalty @1.5 times of extant market rate/kWh (reference rate being the applicable rate on the Indian Energy Exchange (IEX)) for the quantum of such sale.

6.8 Commencement of supply of Power:

Project commissioning and declaration of Commercial Operation Date (COD) shall be governed by the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2023, as amended from time to time. Commissioning of the Project shall be carried out by the WPD in line with the procedure as per the PPA document. SJVN shall bear no responsibility in declaration of commissioning/COD of the Project. SJVN's scope will be limited to verifying the installation of rated capacity(ies) of the Project, with respect to the Contracted Capacity as part of the PPA. SJVN may authorize any individual or committee or organization to witness and validate the commissioning procedure on site. The date of onset of commercial offtake of power by SJVN/Buying Entity shall be determined as the date of commencement of power supply under the RfS/PPA. Prior to declaration of commencement power supply, the WPD shall submit COD certificate for the corresponding Installed Capacity to SJVN as part of the requisite documents. Commissioning certificates shall be issued by the SJVN after successful commissioning. Further, the WPD shall submit requisite documents as per the list to be specified by SJVN prior to signing of PPA, at least 30 days prior to part/full commencement of supply of power from the Project.

6.8.1 Part Commencement of supply of Power:

Part commencement of supply of power from the Project shall be accepted by SJVN subject to the condition that the Minimum Capacity for acceptance of first and subsequent part(s) shall be 50 MW (with the last part being the balance Contracted Capacity), without prejudice to the imposition of liquidated damages, in terms of PPA on the part which has not yet commenced supply of power.

However, the SCSD will not get altered due to part-commencement of supply of power. Irrespective of dates of part or full Commencement of supply of power, the PPA will remain in force for a period specified in the bid

6.8.2 Commencement of Supply Schedule and Liquidated Damages Not Amounting to Penalty for Delay in Commencement of Supply

- i. The Scheduled Commencement of Supply of power Date (SCSD) for the full contracted capacity shall be the date as on 24 months from the Effective Date of the PPA i.e. the date as on 24 months from the Effective Date of PPA.
- ii. The maximum time period allowed for commencement of supply of power for the full contracted capacity with applicable liquidated damages, shall be limited to the date as on 06 months from the SCSD or the extended SCSD (if applicable).
- iii. In case of delay in commencement of supply of power for the full contracted capacity beyond the SCSD until the date as per Clause 6.8.2.ii above, as part of the liquidated damages, the total PBG amount for the contracted capacity shall be encashed on per-day-basis and proportionate to the balance capacity for which supply of power not commenced.
- iv. In case commencement of supply of power for the full contracted capacity is delayed beyond the date as per Clause 6.8.2.ii above, The Contracted Capacity / PPA capacity shall stand reduced/amended to the project capacity that has commenced supply of power within the period of SCSD plus 06 (six) months. The PPA for the balance contracted capacity that has not commenced supply of power shall stand terminated.
- v. It is to be noted that in case, WPD set up new Wind Project to supply Wind Power under this RfS, commencement of supply of power/part supply of power of the Project will not

in addition to the other conditions as per the Commissioning Procedure. For part commencement of supply of power, portion of land on which the part of the project is commissioned should be under clear possession of the WPD in accordance with clause 6.14 of the RfS.

- vi. It is presumed that the tariff will be adopted by the Appropriate Commission within Sixty (60) days of SJVN approaching the Appropriate Commission for adoption of tariff or within one hundred and twenty (120) days from the date of Power Sale Agreement (PSA), whichever is more. However, notwithstanding anything contained in this RfS, in case of any delay in adoption of tariff by the Appropriate Commission, within sixty (60) days of submission or One hundred twenty (120) days of PSA, whichever is more, the Procurer(s) shall grant appropriate extension of time in SCSD to the generators, corresponding to the delay [beyond 60 (sixty) days of submission or 120 (one hundred and twenty) days of PSA whichever is more] in adoption/ approval of tariff by the Appropriate Commission till the date of adoption/ approval by the Appropriate Commission.

6.8.3 Delay in commencement of supply of power on Account of Delay in GNA Operationalization

6.8.3.1 The responsibility of obtaining General Network Access (GNA) shall be of the Buying Entity prior to commencement of supply of power from the Project. For sale of power to SJVN from SCSD, the GNA is required to be obtained by the Buying Entity. Subsequent to grant of connectivity, in case there is a delay in grant/operationalization of GNA by the CTU and/or there is a delay in readiness of the ISTS substation at the Delivery Point, including readiness of the power evacuation and transmission infrastructure of the ISTS network until SCSD of the Project, and it is established that:

- i. The WPD has complied with the complete application formalities as per Clause 6.6 above and as per the Detailed Procedure as issued by the CTU,
- ii. The WPD has adhered to the applicable regulations/ procedures in this regard as notified by the CERC/CEA, and
- iii. The delay in grant of connectivity/GNA by the CTU and/or delay in readiness of the ISTS substation at the Delivery Point, including readiness of the power evacuation and transmission infrastructure of the ISTS network, is a factor attributable to the CTU/transmission licensee and is beyond the control of the WPD;

The above shall be treated as delays beyond the control of the WPD and SCSD for such Projects shall be revised as the date as on 60 days subsequent to the readiness of the Delivery Point and power evacuation infrastructure and/or grant/operationalization of GNA. Decision on requisite extension on account of the above factor shall be taken by SJVN.

6.8.3.2 In case of delay in commencement of power supply from the Project due to reasons beyond the reasonable control of the WPD, SJVN may extend the SCSD after examining the issue on a case-to-case basis. In case of change in Project location(s) by the WPD, extension requests under this clause shall be dealt by SJVN on case-to-case basis. For avoidance of ambiguity, it is clarified that for decisions made under this Clause, the phrase “change in Project location” or its similar connotations, shall refer solely to change in Delivery Point(s) of the Project.

6.8.3.3 Further, in case of delay in commencement of power supply on account of reasons solely attributable to the WPD, resulting in any liquidated damages/penalty levied on the Buying Entity including Transmission charges under the GNA Regulations and/or applicable regulation as notified by CERC, such damages/penalty shall be passed on to the WPD.

6.8.4 Early Commencement of Supply of Power:

The WPD shall be permitted for full as well as part-commencement of power supply from the Project even prior to the SCSD, subject to availability of connectivity and General Network Access.

Early commencement of power supply will be allowed solely at the risk and cost of the WPD and first right of refusal for offtake of such power will vest with the Buying Entity / SJVN. In case Buying Entity / SJVN agrees to purchase power from such early part/full commencement of power supply prior to SCSD, such power will be purchased at the PPA tariff.

In case Buying Entity / SJVN does not agree to purchase such energy, early part/full commissioning of the Project shall still be allowed and the WPD will be free to sell such energy to a third party until SCSD or the date of commencement of procurement of power from the Project as notified by SJVN, whichever is earlier. However, early part/ full commissioning of the Project and subsequent energy procurement from the same shall be subject to the approval of SJVN.

Such intimation regarding consent to procure energy from early commissioning shall be provided by SJVN within 15 days of receipt of the request being made by the WPD, beyond which it would be considered as deemed refusal.

6.9 Performance Bank Guarantee (PBG)

6.9.1 Bidders selected by SJVN based on this RfS shall submit Performance Guarantee for a value @ INR 31,60,000/MW/Project (Indian Rupees Thirty-One Lakhs and Sixty Thousand/MW/Project) corresponding to the Contracted Capacity for which PPA is being signed, prior to signing of PPA. It may be noted that successful Bidders shall submit the Performance Guarantee according to the Format 7.3C with a validity period up to (& including) the date as on 9 months after the SCSD. On receipt and after successful verification of the total Performance Bank Guarantee in the acceptable form, the BG submitted towards EMD shall be returned by SJVN to the successful Bidder. If any extension of the Scheduled Commencement of Supply Date (SCSD) is granted to the project, the PBG shall also be extended in such a way that it remains valid for 09(Nine) months beyond the extended the Scheduled Commencement of Supply Date (SCSD). PBG shall be submitted for each project separately. It may be noted that PPA will be signed only upon successful verification of the PBG submitted by the WPD.

Electronic Bank Guarantee (e-BG) is also acceptable against PBG under this RfS.

- 6.9.2** The PBG is required to be submitted in the name of the entity signing the PPA. In case of PPA being eventually signed with the SPV incorporated/ utilized by the successful bidder, the PBG may be submitted in the name of the successful bidder at an earlier date, if the bidder chooses to do so, and the same shall be replaced by the PBG issued in the name of the SPV, prior to signing of PPA
- 6.9.3** The WPD shall furnish the PBG from any of the Scheduled Commercial Banks as listed on the website of Reserve Bank of India (RBI) and amended as on the date of issuance of bank guarantee. Bank Guarantee issued by foreign branch of a Scheduled Commercial Bank is to be endorsed by the Indian branch of the same bank or State Bank of India (SBI). In case of the Project being implemented through a SPV incorporated by the successful bidder, the PBG shall be furnished in the name of the SPV, except for the case as indicated in Clause 4.4.1(ii) of the RfS.
- 6.9.4** The format of the Bank Guarantees prescribed in the Format 7.3 A (EMD)/ 7.3 C (PBG) shall be strictly adhered to and any deviation from the above Formats shall result in rejection of the EMD/PBG and consequently, the bid. In case of deviations in the formats of the Bank Guarantees, the corresponding PPA shall not be signed.
- 6.9.5** SJVN has agreed to accept the PBG in the form of an unconditional and irrevocable Bank Guarantee instead of the cash deposit with the clear position intimated to the bidder that the PBG shall be encashable for being appropriated by SJVN in terms of the guarantee as in the case of appropriation of the cash deposit lying with SJVN.
- 6.9.6** The selected Bidder for the Project selected based on this RfS is required to sign PPA with SJVN within the timeline as stipulated in Clause 6.11 of the RfS. In case, SJVN offers to execute the PPA with the Selected Bidder and if the Selected Bidder does not submit the requisite documents as per Clause 6.11 (Power Purchase Agreement (PPA)) of the RfS, or does not meet eligibility criteria upon submission of documents, or does not execute the PPA within the stipulated time period, then the Bank Guarantee equivalent to the amount of the EMD shall be encashed by SJVN from the Bank Guarantee available with SJVN (i.e. EMD or PBG) as liquidated damages not amounting to penalty, the selected Project shall stand cancelled and the selected Bidder expressly waives off its rights and objections, if any, in that respect.
- 6.9.7** The Bank Guarantees have to be executed on non-judicial stamp paper of appropriate value as per Stamp Act relevant to the place of execution.
- 6.9.8** All expenditure towards execution of Bank Guarantees such as stamp duty etc. shall be borne by the Bidders/WPDs. Any Bank Guarantee submitted as part of the bidding process / Contract execution, shall be effective only when the BG issuance message is transmitted by the issuing bank through SFMS (in case of BGs issued from within India) or SWIFT (in case of BGs issued from outside India) to the following branch;

I	Bank Name	State Bank of India, CAG Branch
ii	Branch	CAG Branch
iii	Bank Address	5th Floor, Parswanath Capital Tower, Bhai Veer Singh Marg, Gol Market, New Delhi-110001,
Iv	IFSC Code	IFSC code: SBIN0017313

6.9.9 In case of Bank Guarantees issued by foreign branch of a Scheduled Commercial Bank, the same is to be endorsed by the Indian branch of the same bank or SBI, and the endorsing bank would be required to provide the SFMS confirmation.

6.9.10 After the bidding process is over, SJVN shall release the Bank Guarantees towards EMD of the unsuccessful Bidders within 15 days. The PBG of WPDs shall be returned to them, within 45 days after successful commissioning of their projects and commencement of supply of power for contracted capacity as per Terms of PPA, after taking into account any liquidated damages due to delays in commencement of supply of power as per Clause 6.8.2 and 6.8.3.1 of the RfS.

6.9.11 Payment on Order Instrument (POI):

As an alternative to submission of PBG as above, the WPD also has an option to submit a letter of undertaking issued by either of the following three organizations, viz. (i) Indian Renewable Development agency Limited (IREDA) or (ii) Power Finance Corporation Limited or (iii) REC Limited. This Letter of Undertaking shall be issued as “Payment on Order Instrument” (POI), wherein the POI issuing organization undertakes to pay in all scenarios under which the PBG would be liable to be encashed by SJVN within the provisions of RfS/PPA. This instrument would have to be furnished as per Format 7.3 D of the RfS, within the timelines as per Clause 6.9.1 above, for the amount and validity period as per those Clause 6.9.1 above.

In case the WPD chooses to submit POI, delay in submission of the POI beyond the timeline stipulated at Clause above, will be applicable in this case too.

The term “Performance Bank Guarantee (PBG)” occurring in the RfS shall be read as “Performance Bank Guarantee” (PBG)/Payment on Order Instrument (POI)”

6.10 Success Charges & Payment Security Mechanism (PSM) Charges

6.10.1 Success Charges: The Selected Bidder shall have to pay INR 1.00 Lakh/ MW + 18% GST, corresponding to the Contracted Capacity awarded, to SJVN towards administrative overheads, coordination with State Authorities and others, DISCOM/STU/CTU, pre-commissioning and commissioning expense. The payment has to be made by the WPD in the form of DD/ Pay Order/ NEFT/ RTGS within 30 days of issuance of LoA or the date at least 07 days prior to the date of signing of PPA (PPA signing date to be intimated by SJVN), whichever is later. Any delay in depositing the said amount to SJVN as mentioned above within the stipulated time shall attract late payment charges @18% per annum+18% GST, levied on per day basis, on the total Success Charges, till (and including) the date of payment of Success Charges, which shall not be later than the date of signing of PPA. PPA shall only

be signed after deposit of the Success Charges to SJVN. In case of delay in making full payment of above delay charges, the amount paid, if any until the above deadline, along with interest, shall be first reduced from the total amount due towards the delay charges and interest amount (i.e. rate of interest as stated above). Further, balance amount to be paid shall attract Interest rate @ one-year SBI MCLR rate /annum on pro-ratabasis.

6.10.2 Payment Security Mechanism:

As part of the Payment Security Mechanism as brought out in the PPA, the WPD shall undertake to pay PSM Charges @ Rs.0.02/kWh to SJVN, by offering a commensurate discount in the monthly tariff payment being made by SJVN.

6.11 Power Purchase Agreement (PPA):

6.11.1 SJVN shall enter into Power Purchase Agreement (PPA) with Bidders selected based on this RfS. A copy of standard PPA to be executed between SJVN and the selected RPD is available on ISN-ETS Portal and also on SJVN's website. The PPA shall be signed within 30 days of the signing of Power Sale Agreement (s), if not extended by SJVN. Subsequent extension in this timeline shall be finalized as mutually agreed by SJVN and the WPD. PPA will be executed between SJVN and selected bidder or its SPV for the Project.

6.11.2 PPA will be executed between SJVN and the WPD as per the breakup of the Project Capacity awarded to the Bidder which shall remain unchanged until issuance of LoA. Subsequent to issuance of LOA, the above configuration can be changed till the time of Financial closure, subject to provisions stipulated in clause 6.2.1. Further at the time of bid submission, for each Project, the bidder shall provide a tentative hourly generation profile for a representative day for a single year, indicating tentative energy (MWh) and power (MW) to be supplied under the PPA. Delay in meeting the PPA timelines on account of changes in the Project parameters from the data as submitted in the Covering Letter (Format 7.1), shall be at the risk and cost of the Successful Bidder.

In addition to the above, the Successful Bidder shall also submit a detailed Schedule for the Project prior to the signing of PPA. Broad details to be captured in the Schedule are the land procurement, grid connectivity; order, supply and erection status of various Project components; financial arrangement/ tie up etc.

Delay in meeting the project execution timeline on account of changes in the project parameters from the data as submitted in the Covering Letter (Format 7.1), shall be at the risk and cost of the Successful Bidder. The PPA(s) will be signed after signing of PSA(s) for the respective Project(s).

In case any change in project location by the WPD during the project construction period results in any modification in the GNA to be taken by the Buying Entity, any additional charges/ penalties payable by the Buying Entity in this regard shall be borne by the WPD.

6.11.3 The PPAs shall be valid for a period of 25 years from the Scheduled Commencement of Supply Date (SCSD) or the date of commencement of supply of full Project Capacity, whichever is later. Any extension of the PPA period beyond 25 years shall be through

mutual agreement between the WPD, Buying Entity and SJVN.

- 6.11.4** The Performance Bank Guarantee as per Clause 6.9 above and Success Charges as per Clause 6.10 above, shall be submitted by the WPD prior to signing of PPA. Before signing of PPA between SJVN and the WPDs, SJVN will verify the shareholding of the Project Company along with a copy of complete documentary evidence. If at this stage, it is found that the documents furnished by the WPDs are false / misleading or misrepresented in any way, then the provisions contained in this RfS will be applicable.
- 6.11.5** Successful bidders will have to submit the required documents to SJVN within 60 days from the issue of LoA. In case of delay in submission of documents beyond the period as mentioned above, SJVN shall not be liable for delay in verification of documents and subsequent delay in signing of PPA. Effective Date of the PPA shall be the date of signing of PPA.
- 6.11.6** Back-to-back Power Sale Agreements (PSAs) in respect of all rights and obligation under the PPA between the WPD and SJVN, will be executed by SJVN with the Buying Entity for sale of power to Buying Entity, with the buying entity assuming all the obligations of SJVN under the PPA. SJVN's obligation to WPD under the PPA shall also be on the back-to-back basis as provided in the PPA and the corresponding PSA.
- 6.11.7** The WPDs are free to operate their projects after expiry of the 25 years of PPA period if other conditions such as land lease etc., permit. However, any extension of the PPA period beyond 25 years shall be through mutual agreements between the WPD, SJVN and the Buying Entities, as the case may be, as approved by the Appropriate Commission, provided that the arrangements with the land and infrastructure owning agencies, the relevant transmission utilities and system operators permit operation of the Project beyond the initial period of 25 years.
- 6.11.8 Applicable Tariff:** "Applicable Tariff" means the final quoted single tariff, which shall be quoted for 25 years of term of the of PPA. The tariff shall be quoted at the delivery point. The tariff shall be quoted specifically as per the instructions laid out in the RfS.

6.12 Financial Closure or Project Financing Arrangements

- 6.12.1** For a Project size not more than (and including) 1000 MW, the Projects shall achieve Financial Closure by the date as on six months prior to SCSD/Extended SCSD.
- 6.12.2** At the stage of financial closure, the WPDs shall report 100% tie-up of Financing Arrangements for the Projects. In this regard, the WPD shall submit a certificate/necessary document from all financing agencies regarding the tie-up of 100% of the funds indicated for the Project, including arrangements of funds in the form of Equity. The WPD shall also submit the DPR of the Project, detailing out project configuration and proposed commissioning schedule of the Project.
- 6.12.3** Checklist of documents to be submitted at this stage is provided at Annexure-C of the RfS.
- 6.12.4** In case of default in achieving above condition as may be applicable within the stipulated time, SJVN shall be entitled to encash PBG/POI and shall remove the Project from the list of the selected Projects, unless the delay is on account of factors not owing to any action or inaction on the part of the WPD, or caused due to a Force Majeure as per PPA. An extension can however be considered, on the sole request of WPD, on advance payment of extension

charges of INR 1,000/- per day per MW. This extension will not have an impact on the obligation of WPD to achieve commissioning by the Scheduled Commissioning Date of the Project. Subsequent to the completion of deadline for achieving financial closure, SJVN shall issue notices to the WPDs who are not meeting the requirements of Financial Closure as per the RfS deadlines. The notice shall provide a period of 7 business days to the respective WPDs to either furnish the necessary documents or make the above-mentioned payment of Rs. 1,000/MW/day. In case of non- submission of either-the requisite documents or the necessary amount upon expiry of the above-mentioned notice period of 7 days-SJVN shall encash the PBG/POI of the corresponding WPDs and terminate the PPA for the corresponding Project. The amount of Rs. 1,000/MW/day shall be paid by the WPDs in advance prior to the commencement of the said delay period and shall be calculated based on the period of delay as estimated by the WPD. In case of the WPD meeting the requirements of Financial Closure before the last date of such proposed delay period, the remaining amount deposited by the WPD shall be returned by SJVN. Interest on account of delay in deposition of the above-mentioned charges or on any subsequent extension sought, shall be levied @ one-year SBI MCLR rate /annum on pro-rata basis. Any extension charges paid so, shall be returned to the WPD 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.

6.12.5 The WPD will have to submit the required documents to SJVN at least 14 days prior to the scheduled Financial Closure date. In case of delay in submission of documents mentioned above, SJVN shall not be liable for delay in verification of documents and subsequent delay in Financial Closure.

6.13 Land Arrangements for the Project

6.13.1 The WPD shall be entirely responsible for acquiring the land required for setting up the project and SJVN shall not in any manner be responsible for the same.

6.13.2 The WPD shall submit documents/Lease Agreements to establish possession/right to use 100% (hundred per cent) of the required land in the name of the WPD for a period not less than the complete term of the PPA, on or before the SCSD. Wherever leasing of private land is involved, the lease should allow transfer of land lease rights to the lenders or Procurer, in case of default of the Wind Power Generator.

6.13.3 The WPD shall submit a sworn affidavit from the authorized signatory of the WPD listing the details of the land and certifying that total land required for the Project is under clear possession of the WPD.

6.13.4 With respect to demonstration of land possession by the WPD, commissioning of the Project will not be allowed until the demonstration of land possession by the WPD in terms of this Clause and **Clause 6.8.4 of the RfS**. However, in case of delays in demonstrating land possession by the WPD on account of Government delay (including but not limited to delay in land use pattern change, and/or relaxation under respective State land ceiling Act, and/or land lease permission from State Government/Authorities) or delay caused due to a Force Majeure as per PPA, SCSD shall be suitably extended.

6.14 Commercial Operation Date (COD) and Commencement of Supply Date (CSD):

6.14.1 Commercial Operation Date (COD) and Commencement of Supply Date (CSD) shall be the date declared by the generating station after undergoing a successful trial run as per IEGC grid code 2023 and amendments thereof, and subject to fulfilment of other conditions, if

any, of this PPA. In the case of a generating station as a whole, the commercial operation date of the last unit of the generating station shall be considered as the COD of the generating station. Further, Commencement of Supply Date (CSD) shall be the date of commencement of supply of power of the contracted capacity. The following milestone dates may therefore be observed and may fall on separate dates.

(a) Interconnection with Grid: This may be provided by the STU/ CTU/ DISCOM, on the request of the WPD, even if the Project is only partially ready, to facilitate testing and allow flow of power generated into the grid to avoid wastage of Power.

(b) Commissioning of the Project: This will be on a date, when the project meets the criteria defined for project commissioning. SJVN may authorize any individual or committee or organization to declare the project commissioned on site.

6.14.2 Prior to commencement of power supply under the PPA, the WPD shall be required to demonstrate installation and COD of rated capacities of Wind components on pro-rata basis, pertaining to the Contracted Capacity (part/full) being proposed to commence powersupply.

6.14.3 Any energy produced and flowing into the grid before CSD shall not be at the cost of SJVN under this scheme and developers will be free to make short-term sale to any organization or individual. SJVN may agree to buy this power as a trader if they find it viable outside this RfS.

6.14.4 The WPD shall submit requisite documents as mentioned below, at least 30 days prior to part/full commencement of supply of power from the Project, including but not limited to the following:

- i) Intimation regarding the timeline for commencement of supply of power from the Project.
- ii) Installation report duly signed by the authorized signatory as per Annexure-C of the RfS. The WPD is advised to take due care in furnishing such Installation Report.
- iii) 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 WPD to obtain the certificate.
- iv) Approval of Metering arrangement/scheme from CTU/GRID INDIA/ any other concerned authority as applicable
- v) Plant Layout, Plant (AC & DC) SLD.
- vi) Documents pertaining connectivity of the Project to ISTS substation
- vii) Details of land parcels where Project is located and details of Project Financing arrangement
- viii) Documents to establish the compliance of technical requirement as per PPA/RfS
- ix) Invoices against purchase of the WTGs, Inverters/PCUs, WMS, SCADA and DC cables along with the summary sheet containing the list of all the invoices, inverters including details and number of items. Lorry Receipts for delivery of WTGs and inverters at site along with certified summary sheet by the authorized signatory
- x) In addition to the above WPD shall provide coordinates of WTG and or any other document as deemed necessary by SJVN for the purpose of commissioning.

6.15 Minimum Paid Up Share Capital to be Held by Project Promoter

6.15.1 The Bidder shall provide complete information in their bid in reference to this RfS about its promoters and upon issuance of LoA, the WPD shall provide information about its promoters

and their shareholding in the Company before signing of PPA with SJVN.

6.15.2 No change in the controlling shareholding of the Bidding Company or Bidding Consortium shall be permitted from the date of submission of response to RfS till the execution of the PPA.

Following shall not be considered as change in shareholding as mentioned above:

- i. Infusion of Fresh equity capital amongst the existing shareholders/promoters at the time of Bid Submission to meet equity requirements.
- ii. Conversion of CCDs, CCPs etc. already issued to existing shareholders.
- iii. Death, marriage, Divorce, minor attaining major (any legal heir who was minor at the time of signing of PPA), insolvent, insane of existing shareholders.
- iv. Transfer of shares within the members of Immediate Promoter Group only.
- v. Transfer of shares to IEPF
- vi. Issue of Bonus Shares

6.15.3 In case of the Successful Bidder itself executing the PPA. it shall ensure that its promoters shall not cede control (Control shall mean the ownership, directly or indirectly, of more than 50% of the voting shares of such Company or right to appoint majority Directors) of the bidding company/consortium till 01 (one) year from the SCSD, except with the prior approval of SJVN.

6.15.4 In case of Project being executed through SPVs: The Successful Bidder, if being a single company, shall ensure that its shareholding in the SPV/ Project Company executing the PPA shall not fall below 51% at any time prior to 01 (one) year from the SCSD, except with the prior approval of SJVN. In the event the Successful Bidder is a consortium, then the combined shareholding of the consortium members in the SPV/ Project Company executing the PPA, shall not fall below 51% at any time prior to 01 (one) year from the SCSD except with the prior approval of SJVN. Further, the successful bidder shall ensure that its promoters shall not cede control of the bidding company till 1 (one) years from the SCSD, except with the prior approval of SJVN.

6.15.5 In case of companies having multiple promoters (but none of the shareholders having more than 50% of voting rights and paid up share capital), it shall be considered as a company under joint control. In such cases, the shareholding pattern in the company as submitted at the time of bidding, shall be maintained for a period of 01 (one) year after SCSD.

6.15.6 Any change in the shareholding after the expiry of 01 year after SCSD can be undertaken under intimation to SJVN.

----- **END OF SECTION** -----

SECTION VII:
FORMS & FORMATS FOR BID SUBMISSION

Format 7.1
COVERING LETTER

**(The Covering Letter should be submitted on the Letter Head of the Bidding Company/
Lead Member of Consortium)**

Ref.No. _____

Date:

From..... *(Insert name and address of Bidding Company/ Lead
Member of Consortium)*

Tel. #:

Fax #:

E-mail #

To

SJVN Limited
6th Floor, Tower-1, NBCC Office Complex,
East Kidwai Nagar, New Delhi - 110 023

**Sub: Response to RfS No. dated for (Insert
title of the RfS)**

Dear Sir/ Madam,

We, the undersigned..... *[Insert name of the 'Bidder']* having read, examined and understood in detail the RfS including Qualification Requirements in particular, terms & conditions of the standard PPA for supply of power for the Term of the PPA to SJVN, hereby submit our response to RfS.

We confirm that in response to the aforesaid RfS, neither we nor any of our Ultimate Parent Company/ Parent Company/ Affiliate/ Group Company has submitted response to RfS other than this response to RfS, directly or indirectly, in response to the aforesaid RfS (as mentioned in Format 7.8 under Disclosure) **OR** We confirm that in the response to the aforesaid RfS, we have a Group Company who owns more than 10% but less than 26% in the bidding company as well as other companies who may participate in this RfS, and accordingly, we have submitted requisite undertaking as per Format 7.8A in this regard (strike out whichever is not applicable).

We also confirm that we including our Ultimate Parent Company/ Parent Company/ Affiliate/ Group Companies directly or indirectly have not submitted response to RfS for more than cumulative capacity of 600 MW, including this response to RfS

We are submitting application for the development of following Project(s): -

Capacity of Projects applied	Location(s) (Village, Dist., State)	Tehsil,	Interconnectionpoints details	Proposed CUF

1. We give our unconditional acceptance to the RfS, dated[Insert date in dd/mm/yyyy], standard PPA and PSA documents attached thereto, issued by SJVN. In token of our acceptance to the RfS, PPA and PSA documents along with the amendments and clarifications issued by SJVN, the same have been digitally signed by us and enclosed with the response to RfS. We shall ensure that the PPA is executed as per the provisions of the RfS and provisions of PPA and shall be binding on us. Further, we confirm that the supply of power of full contracted capacity shall commence within the deadline as per Clause 6.8.2 of the RfS. We further undertake that we shall demonstrate possession of 100% area of the identified land, within the timelines as per the RfS.
2. **Earnest Money Deposit (EMD):- (Please read Clause 3.10 carefully before filling)**
We have enclosed EMD of INR (Insert Amount), in the form of Bank Guarantee [Insert bank guarantee] dated [Insert date of bank guarantee/] as per Format 7.3A/7.3B from.....[Insert name of bank providing bank guarantee issuing agency] and valid up to in terms of Clause No. 3.10 of this RfS. The total RE capacity for supply of Wind Power offered by us is MW [Insert cumulative capacity proposed]. (Strike off whichever is not applicable)
3. We hereby declare that in the event our Project(s) get selected and we are not able to submit Bank Guarantee of the requisite value(s) towards PBG, Success charge for the selected Projects, within due time as mentioned in Clause Nos. 6.9 & 6.10 of this RfS on issue of LoA by SJVN for the selected Projects and/ or we are not able to sign PPA with SJVN within the timeline as stipulated in the RfS for the selected Projects, SJVN shall have the right to encash the EMD submitted by us and return the balance amount(if any) for the value of EMD pertaining to unsuccessful capacity.
4. We have submitted our response to RfS strictly as per Section VII (Forms and Formats for bid submission) of this RfS, without any deviations, conditions and without mentioning any assumptions or notes in the said Formats.
5. We hereby declare that during the selection process, in the event our bid happens to be the last bid in the list of successful bids and SJVN offers a capacity which is greater than or equal to 50% of our quoted capacity due to overall bid capacity limit, we shall accept such offered capacity.
6. **Acceptance:** - We hereby unconditionally and irrevocably agree and accept that the decision made by SJVN in respect of any matter regarding or arising out of the RfS shall be binding on us. We hereby expressly waive and withdraw any deviations from the

provisions of the RfS and all claims in respect of this process.

We also unconditionally and irrevocably agree and accept that the decision made by SJVN in respect of award of Projects according to our preference order as above and in line with the provisions of the RfS, shall be binding on us.

7. **Familiarity with Relevant Indian Laws & Regulations:** - We confirm that we have studied the provisions of the relevant Indian Laws and Regulations as required to enable us to submit this response to RfS and execute the PPA, in the event of our selection as Successful Bidder.
8. In case of our selection as the Successful bidder under the scheme and the project being executed by a Special Purpose Vehicle (SPV) incorporated by us which shall be our subsidiary, we shall infuse necessary equity to the requirements of RfS. Further we will submit a Board Resolution prior to signing of PPA with SJVN, committing total equity infusion in the SPV as per the provisions of RfS.
9. We are submitting our response to the RfS with formats duly signed as desired by you in the RfS online for your consideration.
10. It is confirmed that our response to the RfS is consistent with all the requirements of submission as stated in the RfS, including all clarifications and amendments and subsequent communications from SJVN.
11. The information submitted in our response to the RfS is correct to the best of our knowledge and understanding. We would be solely responsible for any errors or omissions in our response to the RfS.
12. We confirm that all the terms & conditions of our Bid are valid up to..... (*Insert date in dd/mm/yyyy*) for acceptance [i.e. a period of 12 months from the last date of submission of response to RfS].
13. Contact Person

Details of the representative to be contacted by SJVN are furnished as under:

Name :
Designation :
Company :
Address :
Phone Nos. :
Mobile Nos. :
Fax Nos. :
E-mail address:

14. We have neither made any statement nor provided any information in this Bid, which to the best of our knowledge is materially inaccurate or misleading. Further, all the confirmations, declarations and representations made in our Bid are true and accurate. In case this is found to be incorrect after our selection as Successful Bidder, we agree that

the same would be treated as a seller's event of default under PPA and consequent provisions of PPA shall apply.

Dated the _____ day of _____, 20....

Thanking you,

We remain,

Yours faithfully,

Name, Designation, Seal and Signature of Authorized Person in whose name
Power of Attorney/ Board Resolution/ Declaration.

Format 7.2

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/shaving 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 ofand 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. 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

(Signature of the executant)

(Signature & stamp of Notary of the place of execution)

Place:..... Date:

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

Format 7.3A

FORMAT FOR BANK GUARANTEE TOWARDS EARNEST MONEY DEPOSIT (EMD)

(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 WPD for setting up of 600 MW ISTS-connected Wind Power Projects in India under Tariff-based Competitive Bidding”** of the cumulative capacity of... MW [Insert cumulative Bid capacity/ Contracted Capacity proposed] for supply of power there from on long term basis, in response to the RfS No. _____ dated issued by SJVN Limited (hereinafter referred to as SJVN) and SJVN 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 SJVN at [Insert Name of the Place from the address of SJVN] forthwith without demur on demand in writing from SJVN 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. 12.64 Lakhs per MW of Bid capacity / Contracted 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. 3.10 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. 3.10 of

this RfS]. SJVN shall be entitled to invoke this Guarantee till *[insert date of validity in accordance with Clause No. 3.10 of this RfS]*.

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

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 SJVN to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against SJVN 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 SJVN 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 SJVN 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 State Bank of India, CAG Branch, 5th Floor, Parswanath Capital Tower, Bhai Veer Singh Marg, Gol Market, New Delhi-110001 IFSC code: SBIN0017313, Client Name: SJVN Ltd.

Notwithstanding anything contained hereinabove, 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. 3.10 of this RfS]*.

We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if SJVN 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.

Dated this _____ day of _____, 20____

Format 7.3 B

**FORMAT OF PAYMENT ON ORDER INSTRUMENT TO BE ISSUED BY
IREDA/REC/PFC (IN LIEU OF BG AGAINST EMD)**

No. _____ Date _____
SJVN Ltd, _____ Registered _____

**Reg: M/s _____ (insert name of the Bidder) – Issuance of Payment
on Order Instrument for an amount of Rs. _____**

Dear Sir,

- 1) 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.
- 2) At the request of M/s _____, on behalf of (insert name of the Bidder), this Payment on Order Instrument (POI) is issued for an amount of Rs. _____ (Rupees _____ (in words)). This Payment on Order Instrument comes into force immediately.
- 3) In consideration of the _____ [Insert name of the Bidder] (hereinafter referred to as 'Bidder') submitting the response to RfS inter alia for **“Selection of WPD for setting up of 600 MW ISTS-connected Wind Power Projects in India under Tariff-based Competitive Bidding”** of the capacity of.....MW [Insert Bid capacity / Contracted Capacity proposed] for supply of power there from on long term basis, in response to the RfS No. _____ dated _____ issued by SJVN Limited (hereinafter referred to as SJVN) and SJVN 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 IREDA/PFC/REC] hereby agrees unequivocally, irrevocably and unconditionally to pay to SJVN at [Insert Name of the Place from the address of SJVN] forthwith without demur on demand in writing from SJVN 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. 12.64 Lakhs per MW of Bid capacity / Contracted Capacity proposed], only, on behalf of M/s [Insert name of the Bidder].
- 4) 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 SJVN 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 SJVN within the validity period of this letter as specified herein;
 - (b) The commitment of IREDA/REC/PFC, under this Payment of 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 the against SJVN;
 - (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 (SJVN and Bidding Party), subject to the maximum extent of amount stated herein and IREDA/REC/PFC is not liable to any interest or costs etc;
 - (e) This Payment on 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 SJVN made in any format within the validity period. IREDA/REC/PFC shall not require SJVN to justify the invocation of the POI against the SPV/WPD, to make any claim against or any demand against the SPV/WPD or to give any notice to the SPV/WPD;
 - (g) The POI shall be the primary obligation of IREDA/REC/PFC and SJVN shall not be obliged before enforcing the POI to take any action in any court or arbitral proceedings against the SPV/WPD;
 - (h) Neither SJVN is required to justify the invocation of this POI nor shall IREDA/REC/PFC have any recourse against SJVN in respect of the payment made under letter of undertaking.
- 5) Notwithstanding anything contrary contained anywhere in this POI or in any other documents, this POI is and shall remain valid up to _and IREDA/REC/PFC shall make payment thereunder 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.

Thanking you

Yours faithfully For and on behalf of

M/s.

(name of the POI issuing Agency)

Copy to:-

M/s. _____

_____ As per their request

Format 7.3 C

FORMAT FOR PERFORMANCE BANK GUARANTEE (PBG)

(To be submitted Separately for each Project)

*(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 'selected Wind Power Developer' or 'WPD') submitting the response to RfS inter alia for [Insert title of the RfS] of the capacity of.....MW, at..... [Insert name of the place], for supply of power there from on long term basis, in response to the RfS dated.....issued by SJVN Limited (hereinafter referred to as SJVN) and SJVN considering such response to the RfS of.....[Insert name of the Bidder] (which expression shall unless repugnant to the context or meaning thereof include its executers, administrators, successors and assignees) and selecting the Project of the RE Power Developer and issuing Letter of Award No.to.....(Insert Name of selected RE Power Developer) as per terms of RfS and the same having been accepted by the selected WPD resulting in a Power Purchase Agreement (PPA) to be entered into, for purchase of Power [from selected RE 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 SJVN at [Insert Name of the Place from the address of the SJVN] without demure forthwith on demand in writing from SJVN or any Officer authorized by it in this behalf, any amount up to and not exceeding Indian Rupees.....[Total Value] only, on behalf of M/s_____[Insert name of the selected Wind 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 INR_____ (Indian Rupees_____ Only).

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

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

The Guarantor Bank shall make payment hereunder on first demand without restriction or conditions and notwithstanding any objection by.....[Insert name of the selected RE Power Developer/ Project Company as applicable] and/ or any other person. The Guarantor Bank shall not require SJVN to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against SJVN 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 SJVN shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against the selected RE Power Developer/ Project Company, to make any claim against or any demand on the selected RE Power Developer/ Project Company or to give any notice to the selected RE Power Developer/ Project Company or to enforce any security held by SJVN or to exercise, levy or enforce any distress, diligence or other process against the selected RE Power Developer/ Project Company, diligence or other process against the selected Wind Power Developer / Project Company.

This BANK GUARANTEE shall be effective only when the Bank Guarantee issuance message is transmitted by the issuing Bank through SFMS to State Bank of India, CAG Branch, 5th Floor, Parswanath Capital Tower, Bhai Veer Singh Marg, Gol Market, New Delhi-110001 IFSC code: SBIN0017313, Client Name: SJVN Ltd.

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

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to INR _____ (Indian Rupees _____ 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 SJVN serves upon us a written claimor 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.

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 Scheduled Commercial Banks as listed on the website of Reserve Bank of India (RBI) and amended as on the date of issuance of Bank Guarantee. Bank Guarantee issued by foreign branch of a Scheduled Commercial Bank is to be endorsed by the Indian branch of the same bank or State Bank of India (SBI).

Format 7.3 D

**FORMAT OF PAYMENT ON ORDER INSTRUMENT TO BE ISSUED BY
IREDA/REC/PFC (IN LIEU OF PBG)**

No.

Date

SJVN Ltd

Registered

Reg: M/s_____ (insert name of the PPA signing entity) (Project No..... (insert project ID issued by SJVN) – 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. SJVN 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: *After carefully examining the matter, the Ministry have decided as follows:*

- i) *SJVN 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 & 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) (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), this Payment on Order Instrument (POI) for an amount of Rs. _____ (Rupees ___ (in words)). This Payment on Order Instrument comes into force immediately.
 4. In consideration of the [Insert name of the Bidder] (hereinafter referred to as selected RE Power Developer') submitting the response to RfS inter alia for selection of Contracted Capacity of MW, at [Insert name of the place] under RfS for ___ (insert name of the RfS), for supply of power there from on long term basis, in response to the RfS dated... issued by SJVN Ltd (hereinafter referred to as SJVN) and SJVN considering such response to the RfS of [insert the name of the selected RE Power Developer] (which expression shall unless repugnant to the context or meaning thereof include its executors, administrators, successors and assignees) and selecting the RE Power Project of the RE Power Developer (WPD) and issuing Letter of Award No ---- --- to (Insert Name of selected RE Power Developer) as per terms of RfS and the same having been accepted by the selected WPD resulting in a Power Purchase Agreement (PPA) to be entered into, for purchase of Power [from selected RE 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 SJVN at [Insert Name of the Place from the address of the SJVN] forthwith on demand in writing from SJVN 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 RE 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 SJVN 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 SJVN within the validity period of this letter as specified herein;
 - (b) The commitment of IREDA/REC/PFC, under this Payment of 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 honoured irrespective of any agreement or its breach between IREDA/REC/PFC or its constituents notwithstanding any dispute that may be raised by the against SJVN;
 - (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 (SJVN and Bidding Party), 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 SJVN made in any format within the validity period. IREDA/REC/PFC shall not require SJVN to justify the invocation of the POI against the SPV/WPD, to make any claim against or any demand against the SPV/WPD or to give any notice to the SPV/WPD;
 - (g) The POI shall be the primary obligation of IREDA/REC/PFC and SJVN shall not be obliged before enforcing the POI to take any action in any court or arbitral proceedings against the SPV/WPD;
 - (h) Neither SJVN is required to justify the invocation of this POI nor shall IREDA/REC/PFC have any recourse against SJVN 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 thereunder 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.

Thanking you

Yours faithfully For and on behalf of

M/s(Name of the POI issuing agency)

Copy to:-

M/s. __PP_____

_____As per their request

Format 7.4

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 vide RfS No. for (insert title of the RfS), including signing and submission of all documents and providing information/ response to RfS to SJVN Limited (SJVN), representing us in all matters before SJVN, and generally dealing with SJVN 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 & conditions contained in the Consortium Agreement dated execute 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 7.5

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 itsRegistered 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 SJVN Limited (SJVN) a Company incorporated under the Companies Act, 2013, and having its Registered Office at 6th Floor, Tower-1, NBCC Office Complex, East Kidwai Nagar, New Delhi - 110023

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 SJVN desires to purchase Power under RfS for _____ (insert title of the RfS);

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

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 SJVN 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 ontheir 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 theirrespective 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 inthe issued equity share capital of the Project Company is/shall be in the following proportion

Name	Percentage
Member1	---
Member2	---
Membern	---
Total	100%

We acknowledge that after the execution of PPA, the controlling shareholding (havingnot 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 01 (one) year after Commencement of Supply Date (CSD).

6. 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.
7. 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.
8. 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.
9. 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 commitment.

10. This Agreement shall be construed and interpreted in accordance with the Laws of India and courts at New Delhi alone shall have the exclusive jurisdiction in all matters relating thereto and arising thereunder.
11. 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 SJVN in terms of the RfS.
12. 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 SJVN.
13. 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.
14. 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 SJVN.
15. This Agreement
 - a) 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;
 - b) sets forth the entire understanding of the Members hereto with respect to the subject matter hereof; and
 - c) may not be amended or modified except in writing signed by each of the Members and with prior written consent of SJVN.
16. 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]

(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:

Signature and stamp of Notary of the place of execution

Format 7.6

FORMAT FOR FINANCIAL REQUIREMENT

(This should be submitted on the Letter Head of the Bidding Company/ Lead Member of Consortium)

Ref. No. _____

Date: _____

From: _____ *(Insert name and address of Bidding Company/ Lead Member of Consortium)*

Tel. #:

Fax #:

E-mail address#

To

SJVN Limited

6th Floor, Tower-1, NBCC Office Complex,
East Kidwai Nagar, New Delhi - 110 023

Sub: Response to RfS No. _dated_ _for_ ____.

Dear Sir/ Madam,

We certify that the Bidding Company/Member in a Bidding Consortium is meeting the financial eligibility requirements as per the provisions of the RfS. Accordingly, the Bidder, with the support of its Affiliates, (strike out if not applicable) is fulfilling the minimum Net Worth criteria, by demonstrating a Net Worth of Rs..... Cr. (... in words) as on the last date of Financial Year 2022-23 or as on the date at least 7 days prior to the bid submission deadline (Strike out wherever not applicable).

This Net Worth has been calculated in accordance with instructions provided in Clause 4.3.1 of the RfS.

Exhibit (i): Applicable in case of Bidding Company

For the above calculations, we have considered the Net Worth by Bidding Company and/ or its Affiliate(s) as per following details

Name of Bidding Company	Name of Affiliate(s) whose net worth is to be considered	Relationship with Bidding Company*	Net Worth (inRs. Crore)
Company 1			
Total			

**The column for “Relationship with Bidding Company” is to be filled only in case the financial capability of Affiliate has been used for meeting Qualification Requirements. Further, documentary evidence to establish the relationship, duly certified by a practicing company secretary/ chartered accountant is required to be attached with the format.*

Exhibit (ii): Applicable in case of Bidding Consortium (To be filled by each Member in a Bidding Consortium separately) Name of Member: [Insert name of the Member]

Net Worth Requirement to be met by Member in Proportion to the Equity Commitment:
 INR -----Crore (Equity Commitment (%) * Rs. [] Crore)

For the above calculations, we have considered Net Worth by Member in Bidding Consortium and/ or its Affiliate(s) per following details:

Name of Consortium Member Company	Name of Affiliate(s) whose net worth is to be considered	Relationship with Bidding Company* (If any)	Net Worth (in Rs. Crore)	Equity Commitment (in %age) in Bidding Consortium	Committed Net Worth (in Rs. Crore)
Company 1					

Total					

** The column for “Relationship with Bidding Company” is to be filled only in case the financial capability of Affiliate has been used for meeting Qualification Requirements.*

Further, documentary evidence to establish the relationship, duly certified by a practicing company secretary/chartered accountant is required to be attached with the format

Further, we certify that the Bidding Company/ Member in the Bidding Consortium, with the support of its Affiliates, (strike out if not applicable) is fulfilling the minimum Annual Turnover Criteria, by demonstrating an Annual Turnover of INR__ (_____ in words) as on the end of Financial Year 2022-23 or as on the day at least 7 days prior to the bid submission deadline (choose one). (Strike out if not applicable)

Exhibit (i): Applicable in case of Bidding Company

For the above calculations, we have considered the Annual Turnover by Bidding Company and/ or its Affiliate(s) as per following details:

Name of Bidding Company	Name of Affiliate(s) whose Annual Turnover is to be considered	Relationship with Bidding Company*	Annual Turnover (In Rs. Crore)
Company 1			
Total			

*The column for "Relationship with Bidding Company" is to be filled only in case the financial capability of Affiliate has been used for meeting Qualification Requirements. Further, documentary evidence to establish the relationship, duly certified by a practicing company secretary/chartered accountant is required to be attached with the format.

Exhibit (ii): Applicable in case of Bidding Consortium

(To be filled by each Member in a Bidding Consortium separately) Name of Member: [Insert name of the Member]

Annual Turnover Requirement to be met by Member in Proportion to the Equity Commitment: INR _____ Crore (Equity Commitment (%) * Rs. [] Crore)

For the above calculations, we have considered Annual Turnover by Member in Bidding Consortium and/ or its Affiliate(s) as per following details:

Name of Consortium Member Company	Name of Affiliate(s) whose Annual Turnover is to be considered	Relationship with Bidding Company* (If Any)	Annual Turnover (in Rs. Crore)	Equity Commitment (in %age) in Bidding Consortium	Proportionate Annual Turnover (in Rs. Crore)
Company 1					

Total			
--------------	--	--	--

**The column for “Relationship with Bidding Company” is to be filled only in case the financial capability of Affiliate has been used for meeting Qualification Requirements. Further, documentary evidence to establish the relationship, duly certified by a practicing company secretary/chartered accountant is required to be attached with the format*

Further, we certify that the Bidding Company/ Member in the Bidding Consortium, with the support of its Affiliates, (strike out if not applicable) is fulfilling the minimum Profit Before Depreciation Interest and Taxes (PBDIT) criteria as mentioned in the RFS, by demonstrating a PBDIT of INR..... (in words) as on the end of Financial Year 2022-23 or as on the day at least 7 days prior to the bid submission deadline. (Strike out if not applicable)

Exhibit (i): Applicable in case of Bidding Company

For the above calculations, we have considered the PBDIT by Bidding Company and/ or its Affiliate(s) as per following details:

Name of Bidding Company	Name of Affiliate(s) whose PBDIT is to be considered	Relationship with Bidding Company*	PBDIT (in Rs. Crore)
Company 1			
Total			

**The column for “Relationship with Bidding Company” is to be filled only in case the financial capability of Affiliate has been used for meeting Qualification Requirements. Further, documentary evidence to establish the relationship, duly certified by a practicing company secretary/chartered accountant is required to be attached with the format.*

Exhibit (ii): Applicable in case of Bidding Consortium

(To be filled by each Member in a Bidding Consortium separately) Name of Member: [Insert name of the Member]

PBDIT Requirement to be met by Member in Proportion to the Equity Commitment: INR ---
-- Crore (Equity Commitment (%) * Rs. [] Crore)

For the above calculations, we have considered PBDIT by Member in Bidding Consortium and/ or its Affiliate(s) as per following details:

Name of Consortium Member Company	Name of Affiliate(s) whose PBDIT is to be considered	Relationship with Bidding Company* (If Any)	PBDIT (in Rs. Crore)	Equity Commitment (in %age) in Bidding Consortium	Proportionate PBDIT (in Rs. Crore)
Company 1					

Total					

**The column for "Relationship with Bidding Company" is to be filled only in case the financial capability of Affiliate has been used for meeting Qualification Requirements. Further, documentary evidence to establish the relationship, duly certified by a practicing company secretary/chartered accountant is required to be attached with the format*

(Signature & Name of the Authorized Signatory)

**(Signature and Stamp of CA)
Membership No.**

Regn. No. of the CA's Firm:

Date:

Note:

- a. Along with the above format, in a separate sheet on the letterhead of the Chartered Accountant's Firm, provide details of computation of Net Worth and Annual Turnover duly certified by the Chartered Accountant.
- b. Certified copies of Balance sheet, Profit & Loss Account, Schedules and Cash Flow Statements are to be enclosed in complete form along with all the Notes to Accounts.
- c. In case of the Bidder choosing to meet the Liquidity criteria through an In-principle sanction letter, such document shall be separately submitted by the bidder as part of the bidder's Response to RfS.

FORMAT 7.7

UNDERTAKING

(To be submitted on the letterhead of the Bidder)

We, hereby provide this undertaking to SJVN Limited, in respect to our response to RfS vide RfS No. _____ dated __, that M/s _____ (insert name of the Bidder), or any of its Affiliates is not a willful defaulter to any lender, and that there is no major litigation pending or threatened against M/s _____ (insert name of the Bidder) or any of its Affiliates which are of a nature that could cast a doubt on the ability or the suitability of the Bidder to undertake the Project.

(Name and Signature of the Authorized Signatory)

Format 7.8

FORMAT FOR DISCLOSURE

(To be submitted on the Letter Head of the Bidding Company/ Each Member of Consortium)

DISCLOSURE

Ref. No. _____

Date: _____

From: _____ (*Insert name and address of Bidding Company/ Lead Member of Consortium*)

Tel. #:

Fax #:

E-mail address#

To

SJVN Limited

6th Floor, Tower-1, NBCC Office Complex,

East Kidwai Nagar, New Delhi - 110 023

Sub: Response to RfS No. _____ dated for

Dear Sir/ Madam,

We hereby declare and confirm that only we are participating in the RfS Selection process for the RfS No. _____ dated _____ and that our Parent, Affiliate or Ultimate Parent or any Group Company with which we have direct or indirect relationship are not separately participating in this selection process.

We further declare and confirm that in terms of the definitions of the RfS, M/s.....
(enter name of the Promoter/Promoters) is/are our Promoter(s), and has/have a direct/indirect Control in the bidding company as per the Companies Act 2013. No other entity has a direct/indirect control in the bidding company except the entity(ies) mentioned above.

We further declare that the above statement is true & correct. We undertake that if at any stage it is found to be incorrect, in addition to actions applicable under the RfS/PPA including but not limited to cancellation of our response to this RfS and LoA/PPA as applicable, we, i.e.

M/s_(enter name of the bidding company/member in a consortium), including our Parent, Ultimate Parent, and our Affiliates shall be suspended/debarred from participating in any of the upcoming tenders issued by SJVN for a period of 2 years from the date of default as notified by SJVN.

We also understand that the above is in addition to the penal consequences that may follow from the relevant laws for the time being in force.

We further declare that we have read the provisions of Clause 4.1.4 of the RfS, and are complying with the requirements as per the referred OM dated 23.07.2020 except Sl.11 of the OM, including subsequent amendments and clarifications thereto. Accordingly, we are also enclosing necessary certificates (Annexure to this format) in support of the above compliance under the RfS. We understand that in case of us being selected under this RfS, any of the above certificates is found false, SJVN shall take appropriate action as deemed necessary.

We further declare that we are fully aware of the binding provisions of the ALMM Order and the Lists(s) thereunder, while quoting the tariff in RfS for_(Enter the name of the RfS).

Dated the _____ day of _____, 20....

Thanking you,

We remain, Yours faithfully,

Name, Designation, Seal and Signature of Authorized Person in whose name Power of Attorney/ Board Resolution/ Declaration

Format 7.8 A

FORMAT FOR DISCLOSURE

(To be submitted on the Letter Head of the Bidding Company/ Each Member of Consortium)

(To be submitted by all such bidders in which a common Company/companies directly/indirectly own(s) more than 10% but less than 26% shareholding)

DISCLOSURE

Ref.No. _____

Date:

From: _____ (Insert name and address of Bidding Company/ Lead Member of Consortium)

Tel. #:

Fax #:

E-mail address#

To

SJVN Limited

6th Floor, Plate-B, NBCC Office Block Tower-1, East Kidwai Nagar, New Delhi - 110 023

Sub: Response to RfS No. _____ dated _____ for _____.

Dear Sir/ Madam,

We hereby declare and confirm that in terms of the definitions of the RfS, M/s _____(enter name of the common shareholder) is our Group Company, and has a direct/indirect shareholding of less than 26% in the bidding company. M/s _____(enter name of the common shareholder) also holds directly/indirectly less than 26% shareholding in other Companies which may participate in this RfS, i.e. RfS No. .

We undertake that M/s _____(enter name of the above common shareholder) is not a party to the decision-making process for submission of response to this RfS by M/s____(enter name of the bidding company/member in the consortium). We further undertake that while undertaking any action as part of our response to RfS, we are not complicit with other such bidders participating in this RfS, in which M/s_____ (enter name of the common shareholder) has less than 26% direct/indirect shareholding, if any.

We further declare and confirm that in terms of the definitions of the RfS, M/s(enter name of the Promoter/Promoters) is/are our Promoter(s), and has/have a direct/indirect Control in the bidding company as per the Companies Act 2013. No other entity has a direct/indirect control in the bidding company except the entity(ies) mentioned above

We further declare that the above statement is true & correct. We undertake that if at any stage it is found to be incorrect, in addition to actions applicable under the RfS/PPA including but not limited to cancellation of our response to this RfS and LoA/PPA as applicable, we, i.e. M/s (enter name of the bidding company/member in a consortium), including our Parent, Ultimate Parent, and our Affiliates shall be suspended/debarred from participating in any of the upcoming tenders issued by SJVN for a period of 2 years from the date of default as notified by SJVN

We also understand that the above is in addition to the penal consequences that may follow from the relevant laws for the time being in force

We further declare that we have read the provisions of Clause 4.2.4 of the RfS, and are complying with the requirements as per the referred OM dated 23.07.2020 except Sl. 11 of the OM, including subsequent amendments and clarifications thereto. Accordingly, we are also enclosing necessary certificates (Annexure to this format) in support of the above compliance under the RfS. We understand that in case of us being selected under this RfS, any of the above certificates is found false, SJVN shall take appropriate action as deemed necessary.

Dated the _____ day of _____, 20....Thanking you,

We remain,

Yours faithfully,

Name, Designation, Seal and Signature of Authorized Person in whose name Power of Attorney/ Board Resolution/ Declaration

Annexure to Format 7.8/7.8A

DECLARATION

**RESTRICTION ON PROCUREMENT FROM CERTAIN COUNTRIES: MoF OM
No6/18/2019-PPD dated 23.07.2020**

(To be submitted on the Letter Head of the Bidding Company/ Each Member of Consortium)

Ref. No. _____

Date: _

From: *_(Insert name and address of Bidding Company/Member of Consortium)*

Tel.#:

Fax#:

E-mail address#

To

SJVN Limited

6th Floor, Plate-B, NBCC Office Block Tower-2,

East Kidwai Nagar, New Delhi - 110 023

Sub: Response to the RfS Nodated

Dear Sir/ Madam,

This is with reference to attached order No. OM no. 6/18/2019-PPD dated 23rd July 2020 issued by Department of Expenditure, MoF, Govt of India.

We are hereby submitting the following declaration in this regard:

"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I certify that this bidder is not from such a country or, if from such a country, has been registered with the Competent Authority. I hereby certify that this bidder fulfils all requirements in this regard and is eligible to be considered. Where applicable, evidence of valid registration by the Competent Authority shall be attached]."

We further declare that the above statement is true & correct. We are aware that if at any stage it is found to be incorrect, our response to the tender will be rejected.

Dated the _____ day of _____, 20....

Encl: OM dated 23.07.2020, as referred above

Name, Designation, Seal and Signature of Authorized Signatory

Format 7.9

FORMAT FOR TECHNICAL CRITERIA

(This should be submitted on the Letter Head of the Bidding Company/ Lead Member of Consortium)(To be Submitted Separately for each Project)

Ref. No. _____

Date:

From: _____ *(Insert name and address of Bidding Company/Member of Consortium)*

Tel. #:

Fax#

E-mail address#

To

SJVN Limited

6th Floor, Plate-B, NBCC Office Block Tower-1, East Kidwai Nagar, New Delhi - 110 023

Sub: Response to RfS No. _____ dated _____ for _____.

Dear Sir/ Madam,

We hereby undertake to certify in line with Clause 6.12 under the title “Financial Closure” that the following details shall be furnished within 18 (eighteen) months/ 24 (twenty four) months (strike off whichever is not applicable) from Effective Date of the PPA.

- 1) Evidence of achieving complete-tie-up of the Project Cost through internal accruals or through a Financing Agency.

- 2) DPR of the Project, detailing out project configuration and proposed commissioning schedule of the Project.
- 3) Any other details sought as per the checklist communicated by SJVN

Failure or delay on our part in achieving the above conditions shall constitute sufficient grounds for actions as per the provisions of the RfS

Dated the _____ day of _____, 20....

Thanking you,

Name, Designation, Seal and Signature of Authorized Person in whose name Power of Attorney/ Board Resolution/ Declaration

Format 7.10

DECLARATION BY THE BIDDER FOR THE PROPOSED WIND PROJECT

(To be Submitted on the letterhead of the Bidder)

1	Name of Bidding Company/ Lead Member of Bidding Consortium	
2	Location(s) of Wind Power Project	
3	Contracted Capacity proposed (AC / DC) MW
4	Technology Proposed to be adopted for the Project	
i)	Committed annual CUF for the offered capacity to be supplied in % %
5	Brief about the proposed Technology	(To be enclosed as Annexure to this Format)

Dated the _day of , 20....

Thanking you,

Yours faithfully,

Encl.:

Hourly generation profile for a representative day for a single year, indicating tentative energy (MWh) and power (MW) to be supplied under the PPA, as required under Cl.....

PRE CONTRACT INTEGRITY PACT

Between

SJVN Limited, a company incorporated under the relevant law in the matter and having its registered office at **SHAKTI SADAN, SHANAN, P.O. SANJAULI, SHIMLA, HP-171006** hereinafter referred to as "The SJVN" which expression shall mean and include, unless the context otherwise requires, his successors in office and assigns of the **First Part**.

And

M/s....., a company/ firm/ individual (status of the company) constituted in accordance with the relevant law in the matter and having its registered office at..... represented by Shri hereinafter referred to as "The Bidder/Contractor" which expression shall mean and include, unless the context otherwise requires, his successors and permitted assigns of the **Second Part**.

WHEREAS the SJVN proposes to procure under laid down organizational procedures, contract/s for "**RIS Selection of Wind Power Developers for setting up of 600 MW ISTS-connected Wind Power Projects in India under Tariff-Based Competitive Bidding**" (Name of the work/ goods/ services) and the Bidder/Contractor is willing to offer against NIT No. **RIS No.: SJVN/CC- Delhi/REIA/2024/ Wind-2 TSC: SJVN 2024-TN000004**

NOW, THEREFORE,

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence/prejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:-

Enabling the SJVN to obtain the desired said (work/ goods/ services) at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption on public procurement, and

Enabling the Bidder(s)/Contractor(s) to abstain from bribing or indulging in any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and the SJVN will commit to prevent corruption, in any form, by its officials by following transparent procedures.

1.0 Commitments of the SJVN

- 1.1 The SJVN undertakes that no official of the SJVN, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder/Contractor, either for themselves or for any person, organization or third party related to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the contract.
- 1.2 The SJVN will, during the pre-contract stage, treat all the Bidders/Contractors alike, and will

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provide to all the Bidders/Contractors the same information and will not provide any such information to any particular Bidder/Contractor which could afford an advantage to that particular Bidder/Contractor in comparison to other Bidders/Contractors.

- 1.3 All the officials of the SJVN will report to the appropriate Authority any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.
- 1.4 In case any such proceeding misconduct on the part of such official(s) is reported by the Bidder to the SJVN with full and verifiable facts and the same is prima facie found to be correct by the SJVN, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the SJVN or Independent External Monitor and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by the SJVN the proceedings under the contract would not be stalled.

2.0 Commitments of the Bidder(s)/Consultant(s)

The Bidder(s)/Contractor(s) commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commit itself to the following:-

- 2.1 The Bidder(s)/Contractor(s) will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the SJVN, connected directly or indirectly with the bidding process, or to any person, organization or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.
- 2.2 The Bidder/Contractor further undertakes that it has not given, offered or promised to give, directly or indirectly any bribe, gift consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the SJVN or otherwise in procuring the Contract or forbearing to do or having done any act in relation to the obtaining or execution of the contract or any other contract with SJVN for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with SJVN.
- 2.3 The Bidder(s)/Contractor(s) shall disclose the name and address of agents and representatives and Indian Bidder(s)/Contractor(s) shall disclose their foreign principals or associates.
- 2.4 The Bidder(s)/Contractor(s) shall disclose the payments to be made by them to agents/brokers or any other intermediary, in connection with this bid/contract.
- 2.5 The Bidder, either while presenting the bid or during pre-contract negotiations or before signing the contract, shall disclose any payments he has made, is committed to or intends to make to officials of the SJVN or their family members, agents, brokers or any other intermediaries in connection with the contract and the details of services agreed upon for such payments.
- 2.6 The Bidder/Contractor will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract.

W/lets

- 2.7 The Bidder/Contractor will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.
- 2.8 The Bidder/Contractor shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by the SJVN as part of the business relationship, regarding plans, technical proposals and business details, including information contained in electronic data carrier. The Bidder/Contractor also undertakes to exercise due and adequate care lest any such information is divulged.
- 2.9 The Bidder(s)/Contractor(s) commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.
- 2.10 The Bidder(s)/Contractor(s) shall not instigate or cause to instigate any third person to commit any of the actions mentioned above
- 2.11 If the Bidder/Contractor or any employee of the Bidder/Contractor or any person acting on behalf of the Bidder/Contractor, either directly or indirectly, is a relative of any of the officers of the SJVN, or alternatively, if any relative of an officer of the SJVN has financial interest/stake in the Bidder(s)/Contractor(s) firm (excluding Public Ltd. Company listed on Stock Exchange), the same shall be disclosed by the Bidder/Contractor at the time of filling of tender.

The term 'relative' for this purpose would be as defined in Section 2(77) of the Companies Act 2013.

- 2.12 The Bidder(s)/Contractor(s) shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the SJVN.
- 2.13. The Bidder/supplier shall follow all rules and regulations of India including statutory requirements like minimum wages, ESIC and EPF.

3.0 Previous Transgression

- 3.1 Bidders to disclose any transgressions with any other company that may impinge on the anti-corruption principle. The date of such transgression, for the purpose of disclosure by the bidders in this regard, would be the date on which cognizance of the said transgression was taken by the competent authority. The period for which such transgression(s) is/are to be reported by the bidders shall be the last three years to be reckoned from date of bid submission. The transgression(s), for which cognizance was taken before the said period of three years, but are pending conclusion, shall also be reported by the bidders.
- 3.2 The Bidder agrees that if it makes incorrect statement on this subject, Bidder can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

4.0 Earnest Money (Security Deposit)

The provision regarding Earnest Money/Security Deposit as detailed in the Notice Inviting Tender (NIT) and Instruction to Bidders (ITB) section of the Bid Document is to be referred.

5.0 Sanctions for Violations

- 5.1 Any breach of the aforesaid provisions by the Bidder/Contractor or any one employed by it or acting on its behalf shall entitle the SJVN to take action as per the procedure mentioned in the "Guidelines on Banning of Business Dealings" attached as Annex- A and initiate all or any one of the following actions, wherever required:-

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- (a) To immediately disqualify the bidder and call off the pre contract proceedings without assigning any reason or giving any compensation to the Bidder/Contractor. However, the proceedings with the other Bidder(s)/Contractor(s) would continue.
 - (ii) The Earnest Money Deposit (in pre-contract stage) and/or Security Deposit/Performance Bond (after the contract is Signed) shall stand forfeited either fully or partially, as decided by the SJVN and the SJVN shall not be required to assign any reason thereof.
 - (iii) To immediately cancel the contract, if already signed, without giving any compensation to the Contractor. The Bidder/Contractor shall be liable to pay compensation for any loss or damage to the SJVN resulting from such cancellation/rescission and the SJVN shall be entitled to deduct the amount so payable from the money(s) due to the Bidder/Contractor.
 - (iv) To encash the Bank guarantee, in order to recover the dues if any by the SJVN, along with interest as per the provision of contract.
 - (v) To debar the Bidder/Contractor from participating in future bidding processes of SJVN, as per provisions of "Guidelines on Banning of Business Dealings" (Annex-A), which may be further extended at the discretion of the SJVN.
 - (vi) To recover all sums paid in violation of this Pact by Bidder(s)/Contractor(s) to any middleman or agent or broker with a view to securing the contract
 - (vii) In cases where irrevocable Letters of Credit have been received in respect of any contract signed by the SJVN with the Bidder/ Contractor, the same shall not be opened/operated.
 - (viii) Forfeiture of Performance Security in case of a decision by the SJVN to forfeit the same without assigning any reason for imposing sanction for violation of this Pact.
- 5.2 The SJVN will be entitled to take all or any of the actions mentioned at para 5.1 (i) to (viii) of this Pact also on the Commission by the Bidder/Contractor or any one employed by it or acting on its behalf (whether with or without the knowledge of the Bidder/Contractor), of an offence as defined in GFR, Chapter IX of the Indian Penal Code, 1860 or Prevention of Corruption Act, 1988 or any other statute enacted for prevention of corruption in SJVN's country.
- 5.3 The decision of the SJVN to the effect that a breach of the provisions of this Pact has been committed by the Bidder / Contractor shall be final and conclusive on the Bidder /Contractor. However, the Bidder/Contractor can approach the Independent External Monitor(s) appointed for the purposes of this Pact.

6.0 Independent External Monitor(s)

- 6.1 The SJVN has appointed Independent External Monitor(s) (hereinafter referred to as Monitors) for this Pact.
- 6.2 The task of the Monitors shall be to review independently and objectively, whether and to what extent the parties comply with the obligations under this Pact.
- 6.3 The Monitors shall not be subject to instructions by the representatives of the parties and perform their functions neutrally and independently.
- 6.4 Both the parties accept that the Monitors have the right to access all the documents relating to the project/procurement for which a complaint or issue is raised before them, including minutes of meetings. The right to access records should only be limited to the extent absolutely necessary to investigate the issue related to the subject tender/contract.

Wpd

- 6.5 As soon as the Monitor notices, or has reason to believe, a violation of this Pact, he will so inform CMD/CEO/MD of SJVN and request SJVN to discontinue or take corrective action, or to take 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, refrain from action or tolerate action.
- 6.6 The Bidder(s)/Contractor(s) accepts that the Monitor has the right to access without restriction, to all Project documentation of the SJVN including that provided by the Bidder/Contractor. The Bidder/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 Subcontractor(s). The Monitor shall be under contractual obligation to treat the information and documents of the Bidder/Contractor/Subcontractor(s) with confidentiality.
- 6.7 The SJVN 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 parties. The parties will offer to the Monitor the option to participate in such meetings as and when required.
- 6.8 The Monitor will submit a written report to the CMD/CEO/MD of SJVN within 30 days from the date of reference or intimation to him by the SJVN/Bidder and should the occasion arise, submit proposals for correcting problematic situations.
- 6.9 The word 'Monitor' would include both singular and plural.
- 6.10 In the event of a dispute between the management and the contractor related to those contracts where integrity pact is applicable, in case both the parties agree, they may try to settle the dispute through mediation before the panel of IEMs in a time bound manner. In case the dispute remains unresolved even after mediation by the panel of IEMs, SJVN may take further action as per the terms & conditions of Contract. Expenses on dispute resolution shall be equally shared by both the parties.

7.0 Facilitation of Investigation

In the event of a dispute between the management and the contractor related to those contracts where integrity pact is applicable, in case both the parties agree, they may try to settle the dispute through mediation before the panel of IEMs in a time bound manner. In case the dispute remains unresolved even after mediation by the panel of IEMs, SJVN may take further action as per the terms & conditions of Contract. Expenses on dispute resolution shall be equally shared by both the parties.

8.0 Law and Place of Jurisdiction

This Pact is subject to..... (SJVN's Country) Law. The place of performance and jurisdiction is the Registered Office of the SJVN. The arbitration clause provided in the tender document/contract shall not be applicable for any issue/dispute arising under Integrity Pact.

9.0 Other Legal Actions

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- (i) The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.
- (ii) Changes and supplements as well as termination notice need to be made in writing.
- (iii) If the Consultant is a partnership or a consortium or a joint venture, this pact must be signed by all partners of the consortium/joint venture

10. Validity

10.1 The validity of this Integrity Pact shall be from date of its signing and extend upto 5 years or the complete execution of the contract to the satisfaction of both the SJVN and the Bidder/Consultant/Seller, including warranty period, whichever is later. In case BIDDER is unsuccessful, this Integrity Pact shall expire after six months from the date of the signing of the contract or six months from the date of opening of price bids, whichever is earlier.

10.2 Should one or several provisions of this Pact turn out to be invalid, the remainder of this Pact shall remain valid. In this case, the parties will strive to come to an agreement to their original intention.

11.0 The Parties hereby sign this Integrity Pact at _____ on _____

SJVN

Manish Kumar Kanth
19.04.2024

Bidder

Name: **Manish Kumar Kanth**

(Authorised Person)

Designation

मनीष कुमार कंठ
उप महासंचालक (सिस्टम एवं प्रारण)

(Name of the Person)

Dy. General Manager

(C&P) राजेवीएन लिमिटेड
ऑफिस ब्लॉक, टॉवर-1, 6वीं मंजिल,
एनडीसी कॉम्प्लेक्स, पूर्ण किराई नगर,
एई दिल्ली-110025

Designation

Place: New Delhi

Place-----

Date: 19.04.2024

Date-----

Witness 1.

Manish Kumar Kanth

Witness 1.

M.N. Rahul
Sr. Manager (G)
REIA, Delhi

(Name and address)

2.

Ashish Yadav
Ashish Yadav
Field Engineer
REIA Delhi

(Name and address)

Guidelines on Banning of Business Dealings

1.0 Introduction

- 1.1 SJVN deals with Agencies viz. parties/ contractors/ suppliers/ bidders, who are expected to adopt ethics of highest standards and a very high degree of integrity, commitments and sincerity towards the work undertaken. It is not in the interest of SJVN to deal with Agencies who commit deception, fraud or other misconduct in the tendering process. .
- 1.2 Since banning of business dealings involves civil consequences for an Agency concerned, it is incumbent that adequate opportunity of hearing is provided and the explanation, if tendered, is considered before passing any order in this regard keeping in view the facts and circumstances of the case.

2.0 Scope

- 2.1 The Information for Bidders/ Instruction to Bidders and even the General Conditions of Contract (GCC) of SJVN generally provide that SJVN shall have the rights to remove from list of approved suppliers / contractors or to ban business dealings if any Agency has been found to have committed misconduct or fraud or anything unethical not expected from a reputed contractor.
- 2.2 The procedure of (i) Removal of Agency from the List of approved suppliers / contractors; (ii) Suspension and (iii) Banning of Business Dealing with Agencies, has been laid down in these guidelines.
- 2.3 These guidelines shall apply to all the Projects/ Power Stations/ Regional Offices/ Liaison Offices of SJVN including its subsidiaries and JVs.
- 2.4 It is clarified that these guidelines do not deal with the poor performance of the contractors/ Agencies.
- 2.5 The banning shall be with prospective effect, i.e. future business dealings.

3.0 Definitions

In these Guidelines, unless the context otherwise requires:

- i) "Party / Contractor / Supplier / Bidders" shall mean and include a public limited company or a private limited company, a Joint Venture, Consortium, HUF, a firm whether registered or not, an individual, cooperative society or an association or a group of persons engaged in any commerce, trade, industry, etc. "Party / Contractor/ Supplier / Bidder" in the context of these guidelines is indicated as 'Agency'.
- ii) "Unit" shall mean the Project/ Power Station/ Regional Office/ Liaison Office.
- iii) "Competent Authority" and "Appellate Authority" shall mean the following:

The concerned Director shall be the 'Competent Authority' for the purpose of these guidelines.

CMD shall be the 'Appellate Authority' in respect of such cases.

W/Ad

iv) "Investigating Committee" shall mean any Officer/Committee appointed by Competent Authority to conduct investigation.

v) "List of approved Agencies viz Parties / Contractors / Suppliers/Bidders shall mean any Officer/Committee appointed by Competent Authority to conduct investigation.

4.0 Initiation of Banning / Suspension

Action for banning /suspension business dealings with any Agency shall be initiated by the department responsible for invitation of bids after noticing the irregularities or misconduct on the part of Agency concerned. Besides the concerned department, Vigilance Department of each Unit/ Corporate Vigilance may also be competent to initiate such action.

5.0 Suspension of Business Dealings.

5.1 If the conduct of any Agency dealing with SJVN is under investigation, the Competent Authority may consider whether the allegations (under investigation) are of a serious nature and whether pending investigation, it would be advisable to continue business dealing with the Agency. If the Competent Authority, after consideration of the matter including the recommendation of the Investigating Committee, if any, decides that it would not be in the interest to continue business dealings pending investigation, it may suspend business dealings with the Agency. The order of suspension would operate for a period not more than six months and may be communicated to the Agency as also to the Investigating Committee. The Investigating Committee may ensure that their investigation is completed and whole process of final order is over within such period. However, if investigations are not completed in six months' time, the Competent Authority may extend the period of suspension by another three months, during which period the investigations must be completed.

5.2 The order of suspension shall be communicated to all Departmental Heads of SJVN (including its subsidiaries and JVs) and Heads of the Units. During the period of suspension, no business dealing may be held with the Agency.

5.3 As far as possible, the existing contract(s) with the Agency may continue unless the Competent Authority, having regard to the circumstances of the case, decides otherwise.

5.4 If the Agency concerned asks for detailed reasons of suspension, the Agency may be informed that its conduct is under investigation. It is not necessary to enter into correspondence or argument with the Agency at this stage.

5.5 It is not necessary to give any show-cause notice or personal hearing to the Agency before issuing the order of suspension.

6.0 Ground on which Banning of Business Dealings can be initiated:

6.1 If the security consideration, including questions of loyalty of the Agency to SJVN so warrants:

- 6.2 If the director /owner of the Agency, proprietor or partner of the firm, is convicted by a Court of Law for offences involving moral turpitude in relation to its business dealings with the Government or any other public sector enterprises, during the last three years
- 6.3 If business dealings with the Agency have been banned by the Department of Power, Government of India and the relevant government department of SJVN's Country.
- 6.4 If the Agency has resorted to corrupt, fraudulent practices including misrepresentation of facts;
- 6.5 If the Agency uses intimidation / threatening or brings undue outside pressure on SJVN or its official for acceptance / performances of the job under the contract;
- 6.6 If the Agency misuses the premises or facilities of SJVN, forcefully occupies or damages SJVN's properties including land, water resources, forests / trees or tampers with documents/records etc. (Note: The examples given above are only illustrative and not exhaustive. The Competent Authority may decide to ban business dealing for any good and sufficient reason

7.0 Banning of Business Dealings

7.1 A decision to ban business dealings with any Agency shall apply throughout SJVN including its subsidiaries/JVs.

7.2 There will be an Investigating Committee consisting of officers not below the rank of AGM/DGM from Indenting Division, Finance, Law and Contracts Member from department responsible for invitation of bids shall be the convener of the committee. The functions of the committee shall, inter-alia include:

- i) To study the report of the unit/division responsible for invitation of bids and decide if a prima-facie case for banning exists, if not, send back the case to the Competent Authority.
- ii) To recommend for issue of show-cause notice to the Agency by the concerned unit/division as per clause 9.1.
- iii) To examine the reply to show-cause notice and call the Agency for personal hearing, if required.
- iv) To submit final recommendations to the Competent Authority for banning or otherwise.

8.0 Removal from List of Approved Agencies - Suppliers/ Contractors, etc.

8.1 If the Competent Authority decides that the charge against the Agency is of a minor nature, it may issue a show-cause notice as to why the name of the Agency should not be removed from the list of approved Agencies - Suppliers / Contractors, etc.

8.2 The effect of such an order would be that the Agency would not be qualified for competing in Open Tender Enquiries or Limited Tender Enquiries till the period mentioned in the order.

- 8.3 Past performance of the Agency may be taken into account while processing approval of the Competent Authority for award of the contract.
- 9.0 **Show-cause Notice**
- 9.1 In case where the Competent Authority decides that action against an Agency is called for, a show-cause notice has to be issued to the Agency. Statement containing the imputation of misconduct or misbehavior may be appended to the show-cause notice and the Agency should be asked to submit within 15 days a written statement in its defense.
- 9.2 If the Agency requests for inspection of any relevant document in possession of SJVN, necessary facility for inspection of documents may be provided.
- 9.3 The Competent Authority may consider and pass an appropriate speaking order:
- a) For exonerating the Agency if the charges are not established;
 - b) For removing the Agency from the list of approved Suppliers / Contractors, etc.
 - c) For banning the business dealing with the Agency.
- 9.4 If it decides to ban business dealings, the period for which the ban would be operative may be mentioned.
- 10.0 **Appeal against the Decision of the Competent Authority**
- 10.1 The Agency may file an appeal against the order of the Competent Authority banning business dealing etc. The appeal shall be filed to Appellate Authority. Such an appeal shall be preferred within one month from the date of receipt of the order banning business dealing, etc.
- 10.2 Appellate Authority would consider the appeal and pass appropriate order which shall be communicated to the Agency as well as the Competent Authority.
- 11.0 **Circulation of the names of Agencies with whom Business Dealings have been banned**
- i) The concerned unit shall forward the name and details of the Agency(ies) banned to IT&SE Division of SJVN's Corporate Office for displaying the same on SJVN website.
 - ii) Corporate Contracts Department shall also forward the name and details of the Agency(ies) banned to the Ministry of Power, GoI besides forwarding the name and details to the contracts/procurement group of all CPSUs of power sector.

FORM OF DECLARATION OF ELIGIBILITY

UNDERTAKING

I / We, M/s..... (Name of Bidder) hereby certify that I / we have not been banned /de-listed/ black listed / debarred from business by any PSU / Govt. Department during last 03 (three) years on the grounds mentioned in para 6 of Guidelines on banning of Business dealing (Annex-A to Pre-Contract Integrity Pact) of Tender Document.

(Seal & signature of the Bidder)

Format 7.13

FORMAT FOR SUBMISSION OF FINANCIAL BID

(The Covering Letter should be submitted on the Letter Head of the Bidding Company/ Lead Member of Consortium)

Ref. No. _____

Date: _____

From: _____ *(Insert name and address of Bidding Company/ Lead Member of Consortium)*

Tel. #:

Fax #:

E-mail address #

To

SJVN Limited

6th Floor, Plate-B, NBCC Office Block
Tower-1, East Kidwai Nagar, New
Delhi - 110 023

Sub: Response to RfS No. _____ dated _____ for _____.

Dear Sir/ Madam,

I/ We, _____ *(Insert Name of the Bidder)* enclose herewith the Financial

Proposal for selection of my/ our firm for _____ number of Project(s) for a cumulative capacity of _____ MW in India as Bidder for the above.

I/We agree that this offer shall remain valid for a period of 12 months from the due date of submission of the response to RfS and such further period as may be mutually agreed upon.

Dated the _____ day of _____, 20....

Name, Designation, Seal and Signature of Authorized Person in whose name
Power of Attorney/ Board Resolution/ Declaration

Notes:

1. *For each substation identified, there can be only one tariff for all the projects applied for. If the bidder quotes two tariffs or combination thereof for the projects for a single substation, then the bid shall be considered as non-responsive.*
2. *If the bidder submits the financial bid in the Electronic Form at ETS portal not in line with the instructions mentioned therein, then the bid shall be considered as non- responsive.*
3. *Tariff requirement shall be quoted as a fixed amount in Indian Rupees only. Conditional proposal shall be summarily rejected.*
4. *In the event of any discrepancy between the values entered in figures and in words, the values entered in words shall be considered.*
5. *Tariff should be in Indian Rupee up to two decimal places only*

Format 7.14

PRELIMINARY ESTIMATE OF COST OF RE PROJECT

Bid Capacity / Contracted Capacity:..... MW

Location:

Bidder may use any format to provide the break-up.

Dated the _day of , 20....

Thanking you,

We remain,

Yours faithfully,

Name, Designation, Seal and Signature of Authorized Person in whose name Power of Attorney/ Board Resolution/ Declaration.

Appendix – A2

COMMISSIONING PROCEDURE

Commissioning Procedure for the Project selected under the RfS shall be intimated by SJVN in due course of time.

Annexure - B

SPECIAL INSTRUCTIONS TO BIDDERS FOR e-TENDERING

GENERAL

The Special Instructions (for e-Tendering) supplement 'Instructions to Bidders', as given in these RfS Documents. Submission of Online Bids is mandatory for this RfS.

e-Tendering is a new methodology for conducting Public Procurement in a transparent and secured manner. Now, the Government of India has made e-Tendering mandatory. Suppliers/Vendors will be the biggest beneficiaries of this new system of procurement. For conducting electronic tendering, *SJVN Limited (SJVNI)* has adopted a secured and user friendly e-tender system enabling bidders to Search, View, Download tender document(s) directly from the e-tendering portal of M/s Electronic Tender.com (India) Pvt. Limited <https://www.bharat-electronictender.com> through ISN-ETS. This portal is based on the world's most 'secure' and 'user friendly' software from ElectronicTender®. A portal built using ElectronicTender's software is also referred to as ElectronicTender System® (ETS).

Benefits to Suppliers are outlined on the Home-page of the portal.

INSTRUCTIONS

Tender Bidding Methodology:

Sealed Bid System

Single Stage Two Envelope

Broad Outline of Activities from Bidder's Perspective:

1. Procure a Class III Digital Signing Certificate (DSC).
2. Register on ElectronicTender System® (ETS)
3. Create Marketing Authorities (MAs), Users and assign roles on ETS. It is mandatory to create at least one MA
4. View Notice Inviting Tender (NIT) on ETS
5. For this tender -- Assign Tender Search Code (TSC) to a MA
6. Download Official Copy of Tender Documents from ETS. Note: Official copy of Tender Documents is distinct from downloading 'Free Copy of Tender Documents'. To participate in a tender, it is mandatory to procure official copy of Tender Documents for that tender

7. Clarification to Tender Documents on ETS
 - a) Query to SJVN (Optional)
 - b) View response to queries posted by SJVN
8. Bid-Submission on ETS
9. Respond to SJVN Post-TOE queries

For participating in this tender online, the following instructions are to be read carefully. These instructions are supplemented with more detailed guidelines on the relevant screens of the ETS.

Digital Certificates

For integrity of data and authenticity/ non-repudiation of electronic records, and to be compliant with IT Act 2000, it is necessary for each user to have a Digital Certificate (DC), also referred to as Digital Signature Certificate (DSC), of Class III, issued by a Certifying Authority (CA) licensed by Controller of Certifying Authorities (CCA) [refer <http://www.cca.gov.in>].

Registration

To use the ElectronicTender® portal <https://www.bharat-electronictender.com>, vendors need to register on the portal. Registration of each organization is to be done by one of its senior persons who will be the main person coordinating for the e-tendering activities. In ETS terminology, this person will be referred to as the Super User (SU) of that organization. For further details, please visit the website/ portal, and click on the ‘Supplier Organization’ link under ‘Registration’ (on the Home Page), and follow further instructions as given on the site. Pay Annual Registration Fee as applicable.

After successful submission of Registration details and payment of Annual Registration Fee, please contact ISN-ETS Helpdesk (as given below), to get your registration accepted/ activated.

Important Note:

1. Interested bidders have to download official copy of the RfS & other documents after login into the e-tendering Portal of ISN-ETS <https://www.bharat-electronictender.com>. If the official copy of the documents is not downloaded from e-tendering Portal of ISN-ETS within the specified period of downloading of RfS and other documents, bidder will not be able to participate in the tender.
2. To minimize teething problems during the use of ETS (including the Registration process), it is recommended that the user should peruse the instructions given under ‘ETS User- Guidance Centre’ located on ETS Home Page, including instructions for timely registration on ETS. The instructions relating to ‘Essential Computer Security Settings for Use of ETS’ and ‘Important Functionality Checks’ should be especially

taken into cognizance.

Please note that even after acceptance of your registration by the Service Provider, to respond to a tender you will also require time to complete activities related to your organization, such as creation of users, assigning roles to them, etc.

ISN-ETS/ Helpdesk	
Telephone/ Mobile	<i>Customer Support: +91-124-4229071, 4229072 (From 1000 HRS to 1800 HRS on all Working Days i.e. Monday to Friday except Government Holidays)</i>
Email-ID	<i>support@isn-ets.com [Please mark CC: support@electronic tender.com]</i>

Some Bidding Related Information for this Tender (Sealed Bid)

The entire bid-submission would be online on ETS (unless specified for Offline Submissions).
Broad outline of submissions are as follows:

- Submission of Bid-Parts
 - Envelope I (Technical-Bid)
 - Envelope II (Financial-Bid)
- *Submission of digitally signed copy of Tender Documents/ Addendum*

In addition to the above, the bidders are required to submit certain documents physically offline also as per Clause 3.14.1 of the RfS, failing which the technical bids will not be opened.

Note: The Bidder should also upload the scanned copies of all the above-mentioned original documents as Bid-Annexures during Online Bid-Submission.

Internet Connectivity

If bidders are unable to access ISN-ETS's e-tender portal or Bid Documents, the bidders may please check whether they are using proxy to connect to internet or their PC is behind any firewall and may contact their system administrator to enable connectivity. Please note that Port SSL/ 443 should be enabled on proxy/firewall for HTTPS connectivity. Dial-up/ Broad and internet connectivity without Proxy settings is another option

SPECIAL NOTE ON SECURITY AND TRANSPARENCY OF BIDS

Security related functionality has been rigorously implemented in ETS in a multidimensional manner. Starting with 'Acceptance of Registration by the Service Provider', provision for security has been made at various stages in Electronic Tender's software. Specifically, for Bid Submission, some security related aspects are outlined below:

As part of the Electronic Encrypted[®] functionality, the contents of both the ‘Electronic Forms[®]’ and the ‘Main-Bid’ are securely encrypted using a Pass-Phrase created by the Bidder himself. Unlike a ‘password’, a Pass-Phrase can be a multi-word sentence with spaces between words (e.g. I love this World). A Pass-Phrase is easier to remember, and more difficult to break. It is mandatory that a separate Pass-Phrase be created for each Bid-Part. This method of bid- encryption does not have the security and data-integrity related vulnerabilities which are inherent in e-tendering systems which use Public-Key of the specified officer of a Buyer organization for bid-encryption. Bid-encryption in ETS is such that the Bids cannot be decrypted before the Public Online Tender Opening Event (TOE), even if there is connivance between the concerned tender-opening officers of the Buyer organization and the personnel of e-tendering service provider.

CAUTION: All bidders must fill Electronic Forms[®] for each bid-part sincerely and carefully, and avoid any discrepancy between information given in the Electronic Forms[®] and the corresponding Main-Bid. For transparency, the information submitted by a bidder in the Electronic Forms[®] is made available to other bidders during the Online Public TOE. If it is found during the Online Public TOE that a bidder has not filled in the complete information in the Electronic Forms[®], the TOE officer may make available for downloading the corresponding Main-Bid of that bidder at the risk of the bidder. **If variation is noted between the** information contained in the Electronic Forms[®] and the ‘Main-Bid’, the contents of the Electronic Forms[®] shall prevail.

In case of any discrepancy between the values mentioned in figures and in words, the value mentioned in words will prevail.

The bidder shall make sure that the Pass-Phrase to decrypt the relevant Bid-Part is submitted into the ‘Time Locked Electronic Key Box (EKB)’ after the deadline of Bid Submission, and before the commencement of the Online TOE of Technical Bid. The process of submission of this Pass-Phrase in the ‘Time Locked Electronic Key Box’ is done in a secure manner by first encrypting this Pass-Phrase with the designated keys provided by SJVN.

Additionally, the bidder shall make sure that the Pass-Phrase to decrypt the relevant Bid-Part is submitted to SJVN in a sealed envelope before the start date and time of the Tender Opening Event (TOE).

There is an additional protection with SSL Encryption during transit from the client-end computer of a Supplier organization to the e-Tendering Server/ Portal

PUBLIC ONLINE TENDER OPENING EVENT (TOE)

ETS offers a unique facility for ‘Public Online Tender Opening Event (TOE)’. Tender Opening Officers, as well as, authorized representatives of bidders can simultaneously attend the Public Online Tender Opening Event (TOE) from the comfort of their offices.

Alternatively, one/ two duly authorized representative(s) of bidders (i.e., Supplier organization) are requested to carry a Laptop with Wireless Internet Connectivity, if they wish to come to SJVN's office for the Public Online TOE, if applicable for the RfS.

Every legal requirement for a transparent and secure 'Public Online Tender Opening Event (TOE)', including digital counter-signing of each opened bid by the authorized TOE- officer(s) in the simultaneous online presence of the participating bidders' representatives, has been implemented on ETS.

As soon as a Bid is decrypted with the corresponding 'Pass-Phrase' as submitted by the bidder himself during the TOE itself, or as per alternative methods prescribed in the Tender Documents, salient points of the Bids (as identified by the Buyer organization) are simultaneously made available for downloading by all participating bidders. The tedium of taking notes during a manual 'Tender Opening Event' is therefore replaced with this superior and convenient form of 'Public Online Tender Opening Event (TOE)'.

ETS has a unique facility of 'Online Comparison Chart' which is dynamically updated as each online bid is opened. The format of the chart is based on inputs provided by the Buyer for each Bid-Part of a tender. The information in the Comparison Chart is based on the data submitted by the Bidders. A detailed Technical and/ or Financial Comparison Chart enhances Transparency. Detailed instructions are given on relevant screens.

ETS has a unique facility of a detailed report titled 'Minutes of Online Tender Opening Event (TOE)' covering all important activities of the 'Online Tender Opening Event (TOE)'. This is available to all participating bidders for 'Viewing/ Downloading', as per the NIT configured by the bidding agency.

There are many more facilities and features on ETS. For a particular tender, the screens viewed by a Supplier will depend upon the options selected by the concerned Buyer.

OTHER INSTRUCTIONS

For further instructions, the vendor should visit the home-page of the portal <https://www.bharat-electronictender.com>, and go to the **User-Guidance Center**

The help information provided through 'ETS User-Guidance Center' is available in three categories – Users intending to Register/ First-Time Users, Logged-in users of Buyer organizations, and Logged-in users of Supplier organizations. Various links (including links for User Manuals) are provided under each of the three categories.

Important Note: It is strongly recommended that all authorized users of Supplier organizations should thoroughly peruse the information provided under the relevant links, and take appropriate action. This will prevent hiccups, and minimize teething problems during the use of ETS.

SEVEN CRITICAL DO'S AND DON'TS FOR BIDDERS

Specifically, for Supplier organizations, the following '**SEVEN KEY INSTRUCTIONS for BIDDERS**' must be assiduously adhered to:

1. Obtain individual Digital Signing Certificate (DSC or DC) of Class III well in advance of your tender submission deadline on ETS.
2. Register your organization on ETS well in advance of the important deadlines for your first tender on ETS viz 'Date and Time of Closure of Procurement of Tender Documents' and 'Last Date and Time of Receipt of Bids'. Please note that even after acceptance of your registration by the Service Provider, to respond to a tender you will also require time to complete activities related to your organization, such as creation of -- Marketing Authority (MA) [ie a department within the Supplier/ Bidder Organization responsible for responding to tenders], users for one or more such MAs, assigning roles to them, etc. It is mandatory to create at least one MA. This unique feature of creating an MA enhances security and accountability within the Supplier/ Bidder Organization
3. Get your organization's concerned executives trained on ETS well in advance of your first tender submission deadline on ETS.
4. For responding to any particular tender, the tender (i.e. its Tender Search Code or TSC) has to be assigned to an MA. Further, an 'Official Copy of Tender Documents' should be procured/ downloaded before the expiry of Date and Time of Closure of Procurement of Tender Documents. Note: Official copy of Tender Documents is distinct from downloading 'Free Copy of Tender Documents'. Official copy of Tender Documents is the equivalent of procuring physical copy of Tender Documents with official receipt in the paper-based manual tendering system.
5. Submit your bids well in advance of tender submission deadline on ETS (There could be last minute problems due to internet timeout, breakdown, etc.)
Note: Bid-submission in ETS can consist of submission of multiple bid-components, which vary depending upon the situation and requirements of the Buyer. Successful receipt of a bid in an e-tendering scenario takes place if all the required bid- components are successfully 'received and validated' in the system (ETS) within the scheduled date and time of closure of bidding (On some ETS screens, this is also referred to as 'Last Date and Time of Receipt of Bids'). ETS/ Service Provider is not responsible for what happens at an end-user's end, or while a submission made by an end-user is in transit, until the submission is successfully 'received and validated' in ETS. When a bid-component receipt and validation is successful, it is recorded in the ETS Audit Trail Report, which is generated by ETS. In case of any uncertainty, the application audit trail generated by ETS (ETS Audit Trail Report) shall be the final record/evidence for reference regarding the 'successful bid receipt'.
6. It is the responsibility of each bidder to remember and securely store the Pass-

Phrase for each Bid-Part submitted by that bidder. In the event of a bidder forgetting the Pass-Phrase before the expiry of deadline for Bid-Submission, facility is provided to the bidder to 'Annul Previous Submission' from the Bid-Submission Overview page and start afresh with new Pass-Phrase(s) and if the bids are not opened with the pass-phrase submitted by bidder, SJVN may ask for re-submission/ clarification for correct pass-phrase. If bidder fails to submit correct pass- phrase immediately as requested by SJVN, the Bid Processing Fee and Document Fee, if applicable, shall be forfeited and bid shall not be opened, and EMD shall be refunded. No request on this account shall be entertained by SJVN.

7. ETS will make your bid available for opening during the Online Public Tender Opening Event (TOE) 'ONLY IF' the status pertaining Overall Bid-Submission is 'COMPLETE.' For the purpose of record, the bidder can generate and save a copy of 'Final Submission Receipt'. This receipt can be generated from 'Bid-Submission Overview Page' only if the status pertaining overall Bid-Submission' is 'COMPLETE'

NOTE:

While the first three instructions mentioned above are especially relevant to first-time users of ETS, the fourth, fifth, sixth and seventh instructions are relevant at all times.

Vendors Training Program

One day online training (10:00 to 17:00) is provided by ISN-ETS. Training is optional. In case, any bidder is interested, he may send a request to support@isn-ets.com. Vendors are requested to arrange their own Laptop, Digital Certificate and Wireless Connectivity to Internet.

Vendors Training Charges (Per Participant): Rs. 5,000/- (plus GST @ 18.00 %) or as charged by ISN-ETS.

Annexure - C

CHECK LIST FOR FINANCIAL CLOSURE

(To be signed by the Authorized signatory of the WPD)

(RfS No. _____ dated _____)

Last Date for submission of documents related to Financial Closure – ____ (18 months/ 24 months from Effective Date of PPA)

Project Company Name

Project ID:-

LoA No. - . Dated.

-Effective Date of PPA -

Scheduled Commissioning Date: -

1) Financial Closure - (Clause 6.12 of the RfS, including subsequent amendments & clarifications)

Details	Presently indicated in PPA
Location	
Technology	
Certificate from all financial institutions	<p><u>In case of tie up through Bank / Financial Institutions: -</u></p> <p>Document from Bank / Financial Institutions certifying arrangement of necessary funds by way of sanction of Loan (to be enclosed as <u>Annexure-I</u>).</p> <p><u>In case of Internal Resources: -</u></p> <p>Copy of Board Resolution, Audited/Certified Balance sheet, Profit & Loss Account Statement, Bank Statement and Cash Flow Statement in support of availability of Internal resources of the Project Company and of the Company other than Project Company (in case the required funding will be raised from Company other than Project Company) (to be enclosed as <u>Annexure-I</u>).</p> <p><i>Performa for the cases where funding will be from Company other than Project Company is at 'A-1'.</i></p>

Note:-

- (i) Copy of Final Detailed Project Report (DPR) is to be enclosed as **Annexure – II A**.
- (ii) Undertaking by the Project Company that all Consents, clearances and permits required for supply of Power to SJVN as per the terms of PPA have been obtained is to be enclosed as **Annexure – II B**
- 2) Copy of Agreement/ MOU entered into / Purchase Order with acceptance, for the supply of Plants and Equipment (to be enclosed as Annexure-III)
- 3) **Technical Parameters of the Project (Clauseof the RfS)**
 - 3.0.1 Certificate from Project Company that Technical specifications and directives given in Annexure-A of the RfS will be adhered to (to be enclosed as Annexure-IV A)
 - 3.0.2 Proposed Project configuration as part of DPR of the Project (to be enclosed as Annexure-IV B)
- 4) **Ownership of the WPD: Latest Shareholding Pattern of the Project Company (including Compulsorily Convertible Debentures (CCDs), Compulsorily Convertible Preferential Shares (CCPS) of the Project Company certified by Chartered Accountant (to be enclosed as Annexure VA)**
Shareholding pattern is not required to be submitted by a Listed Company.

Note: Declaration of Shareholding Pattern of the Project Company is to be submitted to SJVN on monthly basis, i.e., by the 10th day of every month for shareholding status of the Company upto the end of the previous month, till 1 year from the date of commissioning of the project.

- 5) **The above checklist is to facilitate financial closure of projects. For any interpretation the respective provision of RfS / PPA shall prevail**

For cases where funding will be from a Company other than Project Company

Board Resolution from _____ (Name of the Company from where the required funding will be raised)

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED BY THE BOARD OF DIRECTORS OF THE COMPANY AT THEIR MEETING HELD ON _____ AT _____ THE REGISTERED OFFICE OF THE COMPANY

RESOLVED that approval of the Board be and is hereby accorded to the company extending unconditional and full financial support whether by way of equity, debt, or a combination thereof, towards meeting the full project cost of Rs. (in words and figures) to M/s

(Name of Project Company), a company within the meaning of The Companies Act, 1956 and/or The Companies Act, 2013, and having its registered office at which was selected by SJVN Limited (SJVN) to develop the.....MW RE Power Project (Project ID...), for generation and sale of RE power under the RfS No. _____ in respect of which Power Purchase Agreement (PPA) was signed between SJVN and (Name of Project Company). Funds will be released for the project as per the request of (Name of Project Company) to meet the financial requirement for the said Project.

Board Resolution from (Project Company)

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED BY THE BOARD OF DIRECTORS OF THE COMPANY AT THEIR MEETING HELD ON _____ AT _____ THE REGISTERED OFFICE OF THE COMPANY

RESOLVED that approval of the Board be and is hereby accorded to the Company which was selected by SJVN Limited (SJVN) to develop the.....MW RE Power Project (Project ID.....), for generation and sale of RE power under the RfS No. _____ in respect of which Power Purchase Agreement (PPA) was signed between SJVN and the Company, to request and undertake to accept unconditional and full financial support and getting release of funds for project as per requirement from the Company i.e. _____, a Company within the meaning of The Companies Act, 1956 and/or The Companies Act, 2013, and having its registered office at _____ whether by way of equity, debt, or a combination thereof for meeting the financial requirements of the project being developed by the Project Company.

Further Resolved that in the event the Company i.e., agrees to extend full financial support as sought above, Sh..... Director, Sh.....Director.... be and are hereby severally or collectively authorized to accept any terms & conditions that may be imposed by.....(Name of the Company), for extending such support and that they are also severally or collectively authorized to sign such documents, writings as may be necessary in this connection

Annexure-D

Illustration regarding applicability of liquidated damages on account of shortfall in Power Supply (Clause 6.7.2, Section VI of the RfS)

❖ Assumptions

- i) Total contracted capacity = 500 MW
- ii) Annual CUF declared by WPD = 25 %
- iii) Permissible lower limit of annual CUF= 25 % - 2.50 % =22.50 %
- iv) Actual annual CUF achieved in a particular year=20 %
- v) Applicable Tariff: Rs.3.00 / kWh

Shortfall in annual offering of energy from Wind Project:

- 1) Total Wind power offered (MWh) for the year = 8,76,600 MWh (Considering tentative CUF of 20.00 %)
- 2) Minimum annual energy from Wind power sources committed at the time of bid submission = $500 \times 8766 \times 0.225 = 986175$ MWh (at 22.50 % availability)
- 3) Thus, Annual Shortfall in energy offered through Wind RE power in the year = $986175 - 876600 = 109575$ MWh
- 4) Damages due to shortfall in Wind power offered for the year = (Annual shortfall x Applicable Tariff x 0.5 x 1000) = $109575 \times 3.00 \times 0.5 \times 1000 = \text{Rs. } 164362500/-$

As per the provisions of the RfS and PPA, both damages will be levied on the developer for the corresponding Contract Year

Note: The above illustration has been provided for a sample monthly data, based on assumptions as indicated. Actual calculations for liquidated damages will be made for the yearly data as per REA.

-----**END OF SECTION**-----

POWER SALE AGREEMENT
FOR
SALE OF [.....MW] OF WIND POWER ON
LONG TERM BASIS
BETWEEN
SJVN LIMITED
And
[Insert the name of the Buying Entity]

SJVN-Buying Entity

This Power Sale Agreement is made on the day of of 2024 at,

Between

SJVN Limited, a company incorporated under the Companies Act 1956, having its registered office at -----

----- and Liaison Office at -----

----- (hereinafter referred to as “SJVN”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and permitted assignees) as a Party of the first part.

And

[Insert the name of the Buying Entity/Utility], a company incorporated under the Companies Act 1956/ the Companies Act 2013, having its registered office at_(hereinafter referred to as “**Buying Entity**” or “**Buying Utility**” or “_” 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 second part.

SJVN and Buying Entity 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 renewable energy in the country and has set an ambitious target to achieve 500 GW of non-fossil-based installed energy capacity by the year 2030.
- B. Ministry of Power, Government of India has issued “**Guidelines for Tariff Based Competitive Bidding Process for Procurement Power from Grid Connected Wind Power Projects**” vide No. 27/02/2023-RCM dated 26.07.2023, including subsequent amendments and clarifications thereto, issued until [Enter the last date of bid submission of the RfS].
- C. SJVN Ltd (hereinafter referred as “SJVN/Renewable Energy Implementing Agency”) has been designated as Intermediary Procurer/Renewable Energy Implementing Agency (REIA) vide Office Memorandum F. No. 283/33/2020-GRID SOLAR dt 24th April 2023

SJVN-Buying Entity

issued by Ministry of New and Renewable Energy (MNRE), Govt of India.

- D. SJVN had initiated a Tariff Based Competitive Bid Process for Selection of Wind Power Developers for setting up of 600 MW ISTS-connected Wind Power Projects in India under Tariff-Based Competitive Bidding on the terms and conditions contained in the Request for Selection (hereinafter referred to as 'RfS') issued by SJVN vide RfS No.....dated..... including its subsequent amendments and clarifications, if any;
- E. SJVN has signed/will sign Power Purchase Agreements (PPAs) with the Wind Power Developers (WPD) / Wind Power Generators (WPGs) selected under the RfS mentioned herein below (hereinafter referred to as "WPDs/WPGs") for procurement of.....of contracted capacity of Wind Power, selected under the provisions of Request for Selection No.....dated.....and subsequent amendment if any) based on the above Guidelines on long term basis as indicated at Schedule-B of PSA;
- F. Buying Utility has agreed to purchase Wind Power from the SJVN under the above RfS and accordingly, SJVN has agreed to sign Power Purchase Agreements (PPAs) with WPD/WPGs for procurement of.....MW Grid Connected Wind Renewable Energy Power Projects for supply of power on long-term basis, as indicated at Schedule-B of PSA. Copy of the PPA(s) shall be submitted by SJVN to Buying Utility within thirty (30) days of the signing of the PPA(s) and such PPA(s) shall become integral part of this Agreement (SJVN-Buying Utility PSA).
- G. Subject to the terms and conditions contained herein, SJVN hereby agrees to sell and make available the electricity procured by SJVN from the WPD/WPG on the terms and conditions contained in the PPA to be entered into between SJVN and the WPD/WPG, as per the initialed PPA (Schedule "A") on a back-to-back basis, to Buying Entity.
- H. Buying Entity hereby acknowledge(s) and accept(s) that SJVN is only an Intermediary Company/ Procurer and is facilitating the purchase and resale of electricity generated from Grid Connected Wind Power Projects ensuring Wind Power and therefore, cannot assume independently, any obligation, financial or otherwise, either to the WPD/WPG or to Buying Entity(ies), (unless otherwise specifically provided in the PPA or the PSA as the case may be), except on a back to back basis, namely, that whatever obligation is enforced by the WPD/WPG under the PPA against SJVN, Buying Entity shall be bound to fulfil the obligation on a back to back basis towards SJVN and similarly, whatever rights that Buying Entity(ies) may claim under this Agreement against SJVN, shall be subject to due enforcement of the corresponding rights on a back to back basis by SJVN against

SJVN-Buying Entity

WPD/WPG, without an independent obligation on the part of SJVN.

- I. Pursuant to the aforesaid objective, the Parties are desirous of entering into a Power Sale Agreement (“PSA”) i.e. a definitive agreement, regarding purchase of Power under above mentioned RfS Documents. Pending execution of the necessary agreements and other relevant documents in relation to the transaction contemplated herein, the Parties wish to execute this PSA setting out the respective obligations of the Parties and the steps necessary to complete the transactions contemplated herein. The Parties have accordingly agreed to enter into this PSA to record their understanding and agreement with regard to the purchase of power to be generated from the Project and in respect to the matters incidental or ancillary thereto, upon the terms and conditions set out herein below.
- J. The damages/dues recovered by SJVN by encashing the PBG/POI, upon the default of the WPD/WPG under the PPA, shall be credited to the payment security fund maintained by SJVN.
- K. The Buying Entity shall be responsible for directly coordinating and dealing with the WPD/WPG, Regional Load Dispatch Centers, State Load Dispatch Centers, Regional Power Committees and other authorities in all respects in regard to declaration of availability, scheduling and dispatch of Grid Connected Wind Power Projects ensuring Wind Power supply and due compliance with deviation and settlement mechanism and the applicable Grid code Regulations, acknowledging that the WPD/WPG and Buying Entity are the Grid connected entities and SJVN as intermediary procurers/ trading licensee is not a Grid connected entity in respect of the Power contracted under this Agreement.

NOW, THEREFORE, IN CONSIDERATION OF THE PROMISES 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 thereunder, 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;
Affiliate	shall mean a person who controls, is controlled by, or is under the common control with such Company. The expression ‘control’ shall mean the ownership, directly or indirectly, of more than 50% of the voting shares of such Company or right to appoint majority Directors;
“Agreement” or “Power Sale Agreement” or “PSA”	shall mean this Power Sale Agreement including its recitals and Schedules, Appendixes amended or modified from time to time in accordance with the terms hereof;
“Appropriate Commission”	Unless otherwise stated or the context requires, Appropriate Commission shall mean Central Electricity Regulatory Commission;
“Backdown”	Means part of Contracted capacity available for scheduling but not scheduled based on instructions from /Buying Utility/SLDC /RLDC, as the case may be;
"Bill DisputeNotice"	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 SJVN and Buying Entity, a day other than Saturday, Sunday or a statutory holiday, on which the banks remain open for business in.....and Delhi and [insert name of State where Buying Entity Registered Office is located] both;
“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 8 of this Agreement;

SJVN-Buying Entity

<p>“Commissioning”</p>	<p>The Project will be considered as commissioned if all equipment as per rated Project Capacity as declared in the Grid Connected Wind Power Projects ensuring Wind Power configuration, has been installed and energy has flown into grid, in line with the Commissioning procedures defined in the PPA read along with RfS.</p>
<p>“Commercial Operation Date(COD)”</p>	<p>shall mean the date on which the commissioning certificate is issued upon successful commissioning (as per provisions of the SJVN-WPD/WPG PPA) of the Project or the last part capacity of the Project as the case may be and regular supply of power from Grid Connected Wind Power Projects ensuring supply of Wind Power as per provisions of SJVN-WPD/WPG PPA. Such date of the issuance of Commissioning Certificate shall be deemed to be the date on which WPD/WPG has successfully demonstrated the compliance of the all requirements for the commissioning as well as commercial operation for the entire Contracted Capacity and commencement of supply of Wind power of full contracted capacity as per provisions of SJVN-WPD/WPG PPA read along with provisions of the RfS.</p>
<p>“Competent Court of Law”</p>	<p>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;</p>
<p>“Consents, Clearances and Permits”</p>	<p>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;</p>
<p>“Consultation Period”</p>	<p>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 SJVN Preliminary Default Notice or Buying Entity Preliminary Default Notice as provided in Article 9 of this Agreement, for consultation between the Parties to mitigate the consequence of the relevant event having regard to all the circumstances;</p>
<p>“Contract Year”</p>	<p>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: in the financial year in which commencement of supply of the first part capacity of the Contracted Capacity would occur, the Contract Year shall commence from the date of commencement of supply of power of first capacity 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 provided further that the last Contract Year of this Agreement shall end on the last day of the Term of this Agreement</p>

SJVN-Buying Entity

<p>“ContractedCapacity”</p>	<p>shall mean [Insert capacity] MW, which is the AC capacity contracted with Buying Entity for supply of power by the SJVN to Buying Entity at the Delivery Point.</p>
<p>“Cumulative Availability”</p>	<p>Shall mean for any period, the average of the daily Availability for all the time blocks during the such period / Contract Year (as applicable) expressed as percentage of the Contracted capacity in MW</p>
<p>“Day”</p>	<p>shall mean a day, if not a Business Day, the immediately succeeding Business Day.</p>
<p>“Declared Capacity” or “Offered Capacity” or “Offered Power”</p>	<p>shall mean the schedule (in MW) as declared by the developer at the Delivery Point (ISTS Substation) for any time-block of the day as defined in the Grid Code.</p>
<p>“Delivery Point” / “Interconnection Point”</p>	<p>“Delivery Point” shall in the case of Wind Project mean a single point or multiple points at the voltage level of 220 kV or above of the ISTS Sub-station including the dedicated transmission line connecting the Wind RE power Projects with the substation system as specified in the RfS document. Metering shall be done at this interconnection point(s) where the power is injected into. For interconnection with grid and metering, the WPD/WPG 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 thereunder by the appropriate commission or CEA.</p> <p>Pursuant to Article 4.2.6 of the PPA, 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, DSM, Scheduling, Reactive power, RLDC/SLDC charges etc.) as notified by the competent authority / regulator shall be borne by the WPD/WPG 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 Buying Utilities.</p>
<p>“Discoms” or “Distribution Licensees” or “Buying Entity(ies)” or “Buying Utility(ies)” or “Procurer(s)”</p>	<p>shall mean the Buying Entity or the distribution utilities who have signed/will sign the back-to-back PSA(s) with SJVN for purchase of Power. It is clarified that all obligations of SJVN under SJVN-WPD/WPG PPA shall be deemed to be the obligations of Buying Entities with which SJVN has signed/will sign Power Sale Agreement.</p>

SJVN-Buying Entity

“Dispute”	shall mean any dispute or difference of any kind between SJVN and the Buying Entity, 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 12 of this Agreement.
“Due Date”	Due Date shall mean the thirty (30 th) day after a Monthly Bill (including all the relevant documents) or a Supplementary Bill from the date of presentation of bill through e-mail and duly acknowledged by the Buying Entity 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 Buying Entity.
“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 (REA)/state energy accounts (SEA) as specified in the Grid Code / Regulations issued by the appropriate agency for each Month (as per their prescribed methodology), including the revisions and amendments thereof;
“Event of Default”	shall mean the events as defined in Article 9 of this Agreement;
“Expiry Date”	Shall mean the date occurring twenty-five (25) years from the Scheduled Commencement of Supply Date (SCSD) of power of contracted capacity or the date of Commencement of Supply of full contracted, whichever is later, unless extended by the Parties as per this Agreement;
“Force Majeure” or “Force MajeureEvent”	shall have the meaning ascribed thereto in Article 7 of this Agreement;
“Guidelines” or “Scheme”	shall mean the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Power Projects” vide Gazette no. 27/02/2023-RCM dated 26.07.2023, including subsequent amendments and clarifications issued / notified till the last date of Bid submission against the referred RfS;
“Grid Code” / “IEGC” or “StateGrid 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;
“GNA Regulations”	refers to the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 and its amendments if any

SJVN-Buying Entity

<p>“Indian Governmental Instrumentality”</p>	<p>shall mean the Government of India, Governments of state(s), ...state(s) in India, where the Wind Power Project, SJVN, Buying Entity and WPD 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;</p>
<p>“Interconnection Facilities”</p>	<p>shall mean the facilities on WPD/WPG’s side and/or the power generator(s)of any other source (as under Appendix-A of SJVN-WPD/WPG PPA), as the case may be, of the Delivery Point for scheduling, transmitting and metering the electrical output in accordance with the SJVN-WPD/WPG PPA 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 of the SJVN-WPD/WPG PPA, the Metering System required for supply of power as per the terms of the SJVN-WPD/WPG PPA;</p>
<p>“Intermediary agency” or “Intermediary nodal agency” or “Intermediary Procurer” or “SJVN”</p>	<p>shall mean SJVN LTD (SJVN);</p>
<p>“Invoice” or “Bill”</p>	<p>shall mean either a Monthly Bill / Supplementary Bill or a Monthly Invoice/ Supplementary Invoice raised by any of the Parties;</p>
<p>“Joint Control”</p>	<p>shall have same meaning as defined in RfS Document;</p>
<p>“Late Payment Surcharge”</p>	<p>shall have the meaning ascribed thereto in Article 6.3 of this Agreement;</p>
<p>“Law”</p>	<p>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;</p>
<p>“Letter of Credit” or “L/C”</p>	<p>shall have the meaning ascribed thereto in Article 6.5 of this Agreement;</p>

SJVN-Buying Entity

“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 Security Mechanism (PSM)”	shall have the meaning ascribed thereto in Article 6.5 of this Agreement;
“Pooling Substation/ Pooling Point”	means a point where more than one 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 WPD/WPG (s) to get connected to the Delivery Point. The voltage level for such common line shall be as per the voltage level specified in “Interconnection Point”. Further, the metering of the pooled power shall be done at the injection point, i.e. the ISTS 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 WPD/WPG to obtain and furnish the meter reading jointly by the WPD/WPG and any competent authority (State Government or Central Government) (if applicable).
“Power Purchase Agreement” or “PPA”	shall mean the back-to-back power purchase agreement entered between the SJVN and WPD/WPG for procurement of power by SJVN from WPD/WPG and annexed hereto as Schedule – A of this Agreement;
“Preliminary Default Notice”	shall have the meaning ascribed thereto in Article 9 of this Agreement;
“RE Project” or “Project” or “Project Capacity”	shall mean as defined in SJVN-WPD/WPG PPA.
“RBI”	shall mean the Reserve Bank of India;
“Rebate”	shall have the same meaning as ascribed thereto in Article 6.4 of this Agreement;
“Renewable (RE) Power”	shall mean the power generated from an Wind RE Project;
“RE Park”	Shall mean areas or parks developed, in accordance with the Guidelines issued by Central or State Governments, for setting-up of renewable energy power projects, including Solar-Wind Wind Power projects.

SJVN-Buying Entity

“Request for Selection / RfS/Bidding Documents”	shall mean Request for Selection Documents issued by SJVN vide RfS No. ___ dated including subsequent clarifications, amendments and addenda thereto.
“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 Commencement-of-Supply Date (SCSD)”	Shall mean Scheduled Commencement of Supply Date (SCSD) in relation to the contracted capacity or the part of the contracted capacity shall mean the date(s) corresponding to the date of commencement of supply quoted in the RfS (Request for Selection).
“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 Delivery Point is located;
“SLDC Charges”	shall mean the charges levied by the SLDC of the state wherein the RE Power Project is located;
“State Transmission Utility” or “STU”	shall mean the Government company notified by the respective State Government as such under Sub-section (1) of Section 39 of the Act;
“Tariff” or “Applicable Tariff”	Shall have the same meaning as provided for in Article 5 of this Agreement;
“Tariff Payment”	shall mean the payments to be made under Monthly Bills as referred to in Article 6 and the relevant Supplementary Bills;
“Termination Notice”	shall mean the notice given by either Parties for termination of this Agreement in accordance with Article 9 of this Agreement;
“Term of Agreement”	shall have the meaning ascribed thereto in Article 2 of this Agreement;
“Part Commencement of Power Supply”	Part Commencement of supply of power from the Project shall be accepted by Procurer subject to the condition that the minimum capacity for acceptance of first part shall be 50% of Project Capacity or 50 MW, whichever is lower, without prejudice to the imposition of penalty, in terms of the PPA on the part which has not yet commenced supply of power. However, in case of inter-state project, first part for acceptance of commencement of supply of power shall be at least 50 MW. The projects can further commence supply of power in parts of at least 10 MW capacity; with last part as the balance capacity. However, the SCSD will not get altered due to part commencement of supply of

SJVN-Buying Entity

	power. Irrespective of dates of part or full commencement of supply of power, the PPA will remain in force for the period specified in the RfS.
“Unit Commercial Operation Date (UCOD)”	shall mean the date of issuance of commissioning certificate for the respective part(s) of the Contracted Capacity subsequent to the demonstration of the compliance of commissioning as per the SJVN-WPD/WPG PPA and witnessed by the Committee duly constituted and also start of injection and scheduling power from the 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;
“Wind Power Project”	shall mean the wind power project that uses wind energy for conversion into electricity through wind turbine generator;
‘Wind Power’	‘Wind Power’, shall mean the power from Wind Power Generating Stations.
“Wind Power Generator’ (WPG)”	Shall mean a generator and supplier of electricity generated through Wind power.

1.2 Interpretation

- 1.2.1 “Agreement” shall be construed as including a reference to its Schedules 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

SJVN-Buying Entity

(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 to day 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, Letter

SJVN-Buying Entity

of Award, Guidelines including subsequent clarifications, addenda, amendments and further clarifications in regard to the tender as well as Power Purchase Agreement shall be read in conjunction with each other and interpreted inharmonious manner.

ARTICLE 2. TERM OF AGREEMENT

2.1 Effective Date

- 2.1.1 This Agreement shall come into effect from date of signing of this Agreement by both the parties and such date shall be the Effective Date for the purpose of this Agreement.
- 2.1.2 SJVN/Buying Entity as the case may be, shall obtain the order of the Appropriate Commission adopting the tariff and approving the procurement of the Contracted Capacity on the terms and conditions contained in this agreement entered into between SJVN and Buying Entity read with the terms and conditions contained in the PPA to be entered into between SJVN and the WPD/WPG. The Trading Margin shall be applicable as per Article 5 of the PSA.
- 2.1.3 Notwithstanding the Effective Date, the condition precedent for the enforcement of the obligations of either party against the other under this Agreement shall be the due fulfillment of the following:
- A. Due Adoption of the Tariff by the Central Electricity Regulatory Commission on the application/Petition filed for the said purpose;
 - B. Signing of the Power Purchase Agreement between SJVN and the WPD/WPG for the entire contracted capacity on the back to back basis with the terms of this Agreement.
- 2.1.4 The parties acknowledge and agree that the Scheduled Commencement-of-Supply Date (SCSD) for the Wind Project has been agreed to in SJVN-WPD/WPG PPA based on each of the Conditions Precedent contained in Article 2.1.3 of the SJVN-WPD/WPG PPA being duly accomplished not later than 60 days of submission of such petition by SJVN/WPD/WPG or within 120 days from the date of signing of PSA, whichever is later. In the event of delay beyond the deadline as above, of such fulfillment of Conditions Precedent, there shall be corresponding extension of Scheduled Commencement-of-Supply Date (SCSD) and extension of time for satisfaction of Conditions Subsequent, if the WPD/WPG has not started any work at site. Provided further that in case, the order of adoption of Tariff and/or procurement approval from CERC and/or SERC as required above is not received or delayed, either Party shall not be liable for payment of any compensation to other Party for any loss or damage on account of such delay in availability or non-availability of the approval of CERC/SERC, as the case may be.

2.2 Expiry and 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. The Expiry Date of the Agreement may be further extended upto 35 years, on such term and conditions as mutually agreed between the parties and approved by the Appropriate Commissions, for which interested Party shall issue notice for such intension at least one hundred eighty (180) days prior to the Expiry Date or otherwise as may be mutually agreed provided the arrangements with the land and infrastructure owning agencies, the relevant transmission utilities and system operators permits operation of the Project beyond such extended period.

2.2.2 The WPD/WPG is free to operate their plants beyond the Expiry Date if other conditions like land lease / Right to Use of Land (as applicable), permits, approvals and clearances etc. allow. In such case unless otherwise agreed by the SJVN/Buying Entity, SJVN/Buying Entity as the case may be shall not be obligated to procure power beyond the Expiry Date.

2.3 Timeline of project implementation

2.3.1 The maximum time period allowed for Commencement-of-Supply of the full Project Capacity/contracted capacity with encashment of Performance Bank Guarantee/ Payment on Order Instrument shall be limited to 6 months after the SCSD/extended SCSD of the Project. In case, the Commencement-of-Supply of power is delayed beyond 6 months after the SCSD/extended SCSD, the Contracted Capacity under the SJVN-WPD/WPG PPA shall stand reduced / amended to the capacity that has commenced supply of power within 6 months after the SCSD/extended SCSD and the PPA for the balance contracted capacity that has not commenced supply of power shall stand terminated and shall be reduced from the Contracted Capacity under the SJVN-WPD/WPG PPA.

2.4 Early Termination

2.4.1 This Agreement shall terminate before the Expiry Date

- a) if either SJVN or WPD/WPG terminates the Agreement, pursuant to Article 9 of this Agreement or
- b) If any SJVN-WPD/WPG PPA gets terminated or modified for a reduced capacity during the Term of this Agreement, the Contracted Capacity under this Agreement shall automatically be reduced but only to the extent of that particular SJVN-

WPD/WPG PPA capacity.

2.5 Survival

2.5.1 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 7 (Force Majeure), Article 9 (Events of Default and Termination), Article 10 (Liability and Indemnification), Article 12 (Governing Law and Dispute Resolution), Article 13 (Miscellaneous Provisions), and other Articles and Schedules of this Agreement which expressly or by their nature survive the Term or termination of this Agreement shall continue and survive any expiry or termination of this Agreement.

ARTICLE 3. SUPPLY OF POWER TO BUYING ENTITY

3.1 Obligations of Buying Entity:

3.1.1 Buying Entity undertakes that it shall: -

- (a) Ensure off take of the available capacity from SCSD or date of Commencement of Supply of contracted capacity, whichever is later.
- (b) Ensure availability of the interconnection facility and evacuation of power from the CTU/STU interface of Buying Entity's state periphery from the SCSD of the Project.
- (c) be responsible for payment of the transmission related charges, losses and applicable RLDC/SLDC Charges, limited to the charges applicable to the Contracted Capacity of Buying Entity under this Agreement, as determined by CERC from time to time.
- (d) Make payment of the Monthly Bill/Supplementary Bill by the Due Date.
- (e) Open and maintain Payment Security Mechanism as per Article 6.5 for the entire Term of the Agreement.
- (f) apply for required consent/NOC from STU/SLDC/concerned agencies for availing long term access/scheduling / Drawal of the power as per applicable regulations, within 30 days of acceptance of such application from the WPD/WPG.
- (g) File petition before SERC seeking necessary approval for procurement of Contracted Capacity under this PSA within 30 days from receipt of PPAs annexed to this Agreement.
- (h) be responsible for obtaining Grid Access as per the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 and its amendments at its own risk and cost.
- (i) Fulfill all the obligations undertaken by Buying Entity under this Agreement.

3.1.2 Obligations of SJVN:

- (a) SJVN shall make efforts to sign PPA with selected WPD/WPGs within 30 days from signing of the PSA with Buying Entity(ies) and copy of the same shall be submitted to Buying Entity(ies) within 30 days of signing.

SJVN-Buying Entity

- (b) SJVN shall approach the Appropriate Commission with all requisite documents for adoption of tariff in terms of Section 63 of the Act, within one month of signing of all the PPAs or PSAs, whichever is later.

3.2 Charges:

- 3.2.1 As per applicable regulation(s) of the Appropriate Commission(s), all charges as determined by Appropriate Commission from time to time pertaining to open access, CTU charges, scheduling charges (if any) and any other charges beyond Delivery Point to the receiving substation(s) of Buying Entity if any, shall be directly paid or reimbursed by Buying Entity. Invoicing for all transmission related charges shall be done through Supplementary Bills.
- 3.2.2 SJVN shall neither be liable for obtaining the open access nor for any payments to be made for such open access to the concerned STU/ CTU by Buying Entity.

3.3 Losses:

- 3.3.1 Buying Entity shall be liable to bear all the transmission losses as determined by Appropriate Commission from time to time in respect of the power evacuated beyond the Delivery Points to its receiving substation(s). SJVN shall bear no liability with respect to transmission charges and losses levied, if any.
- 3.3.2 ISTS charges and losses on transmission of power, including waiver for Wind / RE power, shall be applicable as per extant regulations. Government of India/CERC at their sole discretion, from time to time, issue order for waiver of inter-state transmission system (ISTS) charges and losses on transmission of wind power till a certain date. In case the commissioning of the Project gets delayed beyond the applicable date of ISTS waiver, arising out of any reasons whatsoever, SJVN shall bear no liability with respect to transmission charges and losses levied, if any.

However, in case the commissioning of the Wind Power Projects gets delayed beyond the applicable date of waiver of ISTS charges and losses due to reasons solely attributable to the WPD/WPG, the liability of inter-state transmission charges and losses would be of the WPD/WPG.

In case of any extension in SCSD beyond 30.06.2025, decision on such extension

SJVN-Buying Entity

requests will be taken by MNRE, in line with the OM issued by Ministry of Power vide No. 23/12/2016- R&R dated 30.11.2021, and subsequent amendments/clarifications thereto, read in conjunction with CERC's orders and regulations notified in this regard. The provisions of PPA and PSA in regard to liability of the Buying Entity to pay the ISTS charges and losses shall stand modified by such exemption/waiver provided as per the above Order/Office Memorandum and regulations issued by CERC, as applicable.

Subject to the above, it is however, clarified that ISTS charges and losses for the any other source(s) component, beyond the Delivery Point(s) and upto the drawl point(s), shall be borne by the Buying Utility upon the execution of the relevant PSA.

ARTICLE 4. METERING, ENERGY ACCOUNTING AND SCHEDULING

4.1 Metering

- 4.1.1 The metering arrangements for metering the electrical energy supplied at the Delivery Point and the Delivery Point shall be as per the provisions identified in the SJVN-WPD/WPG PPA respectively. The metering arrangement shall comply with the norms of CERC/ SERC / CEA etc. as applicable.
- 4.1.2 The energy details obtained from Energy Accounts issued by the RPC / LDC of the Buying Entity shall be provided to Buying Entity by SJVN along with Monthly Bill validating the total energy for which the Monthly Bill is generated.
- 4.1.3 Energy Accounts shall be binding on both the Parties for billing and payment purposes.

4.2 Energy Accounting and Scheduling

- 4.2.1 The scheduling and energy accounting of Power shall be as per the provisions of the SJVN-WPD/WPG PPA and Grid Code.
- 4.2.2 The WPD/WPG shall be responsible for any deviation from scheduling and for any resultant liabilities on account of charges for deviation as per applicable prevailing regulations. For Wind component of the total power supplied, DSM as per prevailing Regulations shall be applicable. The Deviation Settlement Mechanism (DSM) charges at the generator ends shall be directly paid / settled by the WPG.
- 4.2.3 The WPD/WPG shall be responsible for any deviation related to scheduling and actual generation.
- 4.2.4 The scheduling and punching of power from the Project at different Regional Load Despatch Centres (RLDCs) / State Load Despatch Centres (SLDCs) (including the injecting, intervening and buyer SLDCs / RLDCs) shall be the responsibility of WPG Only. The WPD/WPG will be required to ensure the schedules and its subsequent revisions, by themselves, at the interfaces of all the RLDCs / SLDCs concerned for the corridor of power flow, including the RLDC of the Buying Entity(ies), as per the Regulations in force, under intimation to SJVN/Buying Entity. SJVN/Buying Entity may facilitate in identification of any discrepancy and assist the WPD/WPG for its early rectification without any liability on Buying Entity/SJVN. The WPD/WPG shall be solely responsible for discrepancy identification and its rectification to avoid any rejection/less payment of invoices.

Article 5. APPLICABLE TARIFF

5.1 The Tariff applicable for the sale of Power by SJVN to the Buying Entity under this Agreement shall be the Tariff as applicable for payment by SJVN to WPD/WPG i.e. under the terms of the Power Purchase Agreement between SJVN and the WPD/WPG (Individual WPD/WPGs tariff as per schedule B) for entire term of agreement at Delivery Point and in addition thereto a trading margin of Seven (7) paisa/kWh shall be payable by the Buying Entity to SJVN which SJVN shall be entitled to appropriate as its income.

5.2 As per provisions of the PPA, the WPD/WPGs are permitted for full as well as part commissioning of the Project even prior to the SCSD. In case of early part/full commissioning of the Project(s) prior to SCSD, Buying Entity shall have the first right of refusal and Buying Entity may purchase the power at PPA tariff as per the PPA plus SJVN's Trading Margin of Rs 0.07/kWh (Seven Paise per kWh). Subsequent to SCSD, Buying Entity shall purchase the power at the Applicable tariff as per the PPA plus SJVN's Trading Margin of Rs 0.07/kWh.

However, energy procurement from the Project upon early part/ full commissioning of the Project shall be subject to the approval of the Buying Entity. Such intimation regarding consent to procure energy from early commissioning shall be provided by the Buying Entity within 15 days of receipt of the request being made by SJVN, beyond which, it would be considered as deemed refusal on part of the Buying Entity.

ARTICLE 6. BILLING AND PAYMENT

6.1 General

6.1.1 The Parties acknowledge and accept that the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 notified vide G.S.R 416(E) on 03.06.2022 by the Central Government in exercise of the power conferred by Sub-section (1) of Section 176 of the Electricity Act, 2003 and its amendments (if any) shall apply and govern the terms and conditions of this Agreement in regard to matters contained in the said Rules including but not limited to the Late Payment Surcharge, adjustment towards the Late Payment Surcharge, Payment Security mechanism-its operations and consequences, actions of Defaulting Entities, supply obligation of WPD/WPG, power not requisitioned by the Buying Entity, the order of payment and adjustment towards late payment surcharge and indemnification. In case of any inconsistency in the Guidelines and/or the provisions of this Agreement, with the provisions of the above Electricity (Late Payment Surcharge and Related Matters) Rules, 2022, the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 will supersede and be applicable and govern the terms and conditions of this Agreement. The above shall apply both in regard to the present agreement as well as on mutatis mutandi and back to back basis to the PPA. The Rules referred to herein above being statutory shall, to the extent applicable, supersede any provisions in the PPA and PSA which are inconsistent or contrary to the provisions of the Rules.

6.1.2 The Parties acknowledge and accept that the Electricity (Promotion of Generation of Electricity from Must-Run Power Plants) Rules, 2021 notified vide G.S.R. 752(E) dated 22.10.2021 by the Central Government in exercise of the power conferred by Sub-section (1) of Section 176 of the Electricity Act, 2003 shall apply in regard to the Must-Run Power Plants forming part of this Agreement, including in regard to curtailment, the regulation of power supply and sale of power to the power exchange and consequential adjustment of the recoveries. In case of any inconsistency in the Guidelines and/or the provisions of this Agreement, with the provisions of the above Electricity (Promotion of Generation of Electricity from Must-Run Power Plants) Rules, 2021, the Electricity (Promotion of Generation of Electricity from Must-Run Power Plants) Rules, 2021 will supersede and be applicable and govern the terms and conditions of this Agreement. The above shall apply both in regard to the present

SJVN-Buying Entity

agreement as well as on mutatis mutandi and back to back basis to the PPA. The Rules referred to hereinabove being statutory shall, to the extent applicable, supersede any provisions in this Agreement and the PSA which are inconsistent or contrary to the provisions of the Rules.

6.1.3 Subject to the above, from the commencement of supply of power by SJVN, the Buying Entity shall pay to SJVN the monthly Tariff Payments, on or before the Due Date, in accordance with Tariff as specified in Article 5. All Tariff Payments by the Buying Entity shall be in Indian Rupees.

6.1.4 SJVN shall issue to the Buying Entity a signed Monthly Bill every month, either through e-mail or any other means on any business day of the month, prepared based on provisional energy of the preceding month. However, hard copy of the bill may be sent by SJVN to the Buying Entity, afterwards. The monthly bill shall also include the following:

- i) Monthly bill may be raised based on the provisional REA / SEA, the final adjustments in bill if any may be done on the basis of the final REA / SEA along with Debit/Credit Note.
- ii) Late Payment Surcharge if any
- iii) Taxes, duties Levies etc, as applicable
- iv) Change in Law if any as applicable
- v) Losses and Transmission Charges as applicable, in accordance with CERC notification and amendments

Final billing may be done based on published REA /SEA.

6.2 Payment of Monthly Bills

6.2.1 The Buying Entity shall pay the amount payable under the Monthly Bill/Supplementary Bill on or before the Due Date i.e. within 30 days of presentation of bill within official hours, to such account of SJVN, as shall have been previously notified to the Buying Entity in accordance with Article 6.2.2 below.

6.2.2 SJVN shall open a bank account at New Delhi ("SJVN's Designated Account") for all Tariff Payments to be made by the Buying Entity to SJVN and notify the Buying Entity of the details of such account at least ninety (90) Days before the dispatch of the first

SJVN-Buying Entity

Monthly Bill. The Buying Entity shall also designate a bank account at (The Buying Entity's Designated Account) for payments to be made by SJVN to Buying Entity, if any. The Buying Entity shall inform SJVN the details of such account ninety (90) Days before the dispatch of the first Monthly Bill. SJVN and the Buying Entity shall instruct their respective bankers to make all payments under this Agreement to the Buying Entity' Designated Account or SJVN's Designated Account, as the case may be, and shall notify either Party of such instructions on the same day.

6.3 Late Payment Surcharge

Subject to Article 6.1, 6.2, In the event of payment of a Monthly Bill by the Buying Entity beyond the Due Date, a Late Payment Surcharge (LPS) shall be payable by the Buying Entity to SJVN on the outstanding payment, at the base rate of Late Payment Surcharge applicable for the period for the first month of default. The rate of Late Payment Surcharge for the successive months of default shall increase by 0.5 percent (50 bps) for every month of delay provided that the Late Payment Surcharge shall not be more than three (3) percent higher than the base rate at any time.

“Base rate of Late Payment Surcharge” means the marginal cost of funds based lending rate for one year of the State Bank of India, as applicable on the 1st April of the financial year in which the period lies, plus five percent and in the absence of marginal cost of funds based lending rate, any other arrangement that substitutes it, which the Central Government may, by notification, in the Official Gazette, specify. Provided, that if the period of default lies in two or more financial years, the base rate of Late Payment Surcharge shall be calculated separately for the periods falling in different years.

The Late Payment Surcharge shall be claimed by SJVN through the Supplementary Bill or subsequent monthly bill. All payments by the Buying Entity to SJVN for power procured from it shall be first adjusted towards Late Payment Surcharge and thereafter, towards monthly charges, starting from the longest overdue bill.

Order of payment and adjustment towards Late Payment Surcharge - All the bills payable by the Buying Entity to SJVN for the energy procured from it, shall be time tagged with respect to the date and time of submission of the bill and the payment made by the Buying Entity shall be adjusted first against the Late Payment Surcharge and

SJVN-Buying Entity

thereafter the oldest bill and then to the second oldest bill and so on, so as to ensure that payment against a bill is not adjusted unless and until all bills older than it have been paid for.

6.4 Rebate

For payment of any Bill including Supplementary Bill on or before Due Date, the following Rebate shall be paid by the SJVN to Buying Entity in the following manner:

- a) A Rebate of 1.5% shall be payable to the Buying Entity for the payments made within a period of 5 days of the date of presentation of bills through e-mail.
- b) Any payments made beyond a period of 5 days upto and including the 20th Day from the date of presentation of bills through email, shall be allowed a rebate of 1%.
- c) Any payments made beyond a period of 20 days upto and including the Due date from the date of presentation of bills through email, no rebate shall be allowed.
- d) No Rebate shall be payable on the Bills raised on account of Change in Law, taxes, duties, cess etc., Late Payment Surcharge and transmission & scheduling related charges, RLDC/SLDC charges, CTU/STU charges, open access charges etc.
- e) The bill receipt date shall be considered as zero date.

Illustration – For the invoice received through e-mail on the 1st January, the Due Date shall be the 31st January considering the bill receipt date as zero date and 30th day as the InvoiceDue Date.

6.5 Payment Security Mechanism

(A) Letter of Credit (LC):

6.5.1 The Buying Entity shall provide to SJVN, in respect of payment of its Monthly Bills, a single, unconditional, revolving and irrevocable letter of credit (“Letter of Credit”) opened and maintained by the Buying Entity, which may be drawn upon by SJVN in accordance with this Article. The Buying Entity shall provide SJVN draft of the Letter of Credit proposed to be provided to SJVN two (2) months before the Scheduled Commencement of Supply Date (SCSD).

6.5.2 Not later than one (1) Month before the Commencement of Supply, the Buying Utility

SJVN-Buying Entity

shall through a scheduled bank at__open a Letter of Credit in favour ofSJVN, to be made operative at least 15 days prior to the Due Date of its first Monthly Bill under this Agreement. The Letter of Credit shall have a term of twelve (12)Months and shall be renewed annually for an amount equal to:

- i) equal to 110% of the estimated average monthly billing; for the first Contract Year.
- ii) equal to 110% of the average of the monthly billing of the previous Contract Year, for each subsequent Contract Year.

6.5.3 SJVN shall not draw upon such Letter of Credit prior to the Due Date of the relevant Monthly Bill and shall not make more than one drawl in a Month.

6.5.4 Provided further that if at any time, such Letter of Credit amount falls short of the amount specified in Article 6.5.2 due to any reason whatsoever, the Buying Entity shall restore such shortfall within seven (7) days of receipt of such information from SJVN.

6.5.5 The Buying Entity shall cause the scheduled bank issuing the Letter of Credit to intimate SJVN, in writing regarding establishing of such irrevocable Letter of Credit and any of the changes therein.

6.5.6 The Buying Entity shall ensure that the Letter of Credit shall be renewed not later than its expiry.

6.5.7 All costs relating to opening, maintenance of the Letter of Credit shall be borne by the Buying Entity.

6.5.8 If the Buying Entity fails to pay a Monthly Bill or part thereof within and including the Due Date, then, subject to Article 6.5.3 and 6.9 SJVN may draw upon the Letter of Credit and accordingly the bank shall pay without any reference or instructions from the Buying Entity, an amount equal to such Monthly Bill or part thereof, by presenting to the scheduled bank issuing the Letter of Credit, the following documents:

- i) a copy of the Monthly Bill which has remained unpaid by the Buying Entity;
- ii) a certificate from SJVN to the effect that the bill at item (i) above, or specified part thereof, is in accordance with the Agreement and has remained unpaid beyond the Due Date as per the provision of this PSA;

(B) State Government Guarantee

SJVN-Buying Entity

The Buying Utility shall extend the State Government Guarantee, in a legally enforceable form, such that there is adequate security, both in terms of payment of energy charges and termination compensation if any [for the purpose of this clause, the Tri-Partite Agreement (TPA) signed between Reserve Bank of India, Central Government and State Government shall qualify as State Government Guarantee covering the security for payment of energy charges]. SJVN shall ensure that upon invoking this guarantee, it shall at once, pass on the same to the WPD/WPG(s), to the extent the payments to the WPD/WPG(s) in terms of the PPA are due.

It is hereby clarified that the State Government guarantee shall be invoked only after SJVN has been unable to recover its dues under the PSA by means of the Letter of Credit and the Payment Security Fund, if any.

(C) **Payment Security Fund**

In cases where the Buying Entity is neither covered by the TPA nor is able to provide the State Government Guarantee, the Buying Entity shall provide Payment Security Fund to SJVN which shall be suitable to support payment of at least 3 (three) months of average monthly billing of the Projects.

6.6 Third Party Sales by SJVN

- 6.6.1 Notwithstanding anything to the contrary contained in this Agreement, SJVN shall be entitled to but not obligated to regulate supply of Power of the Buying Entity in case of Default in making payment by the 30th day after the Due Date of the Buying Entity. SJVN shall issue the Notice for Regulation of Power Supply on the date above and shall give a notice of 15 days to start the regulation on the 16th day thereafter.
- 6.6.2 Regulation of power supply would be on pro rata basis i.e., in the ratio of amount due and unpaid to total amount due against the relevant Monthly Bill.

In order to avoid any doubts, it is illustrated that:

In the event of a bill amounting to Rs. 25 Crore is unpaid to the extent of Rs. 10 Crore, SJVN would have a right to regulate and sell Buying Utility's allocation of the power to third parties to the extent of 40% (i.e. $10/25 \times 100$). SJVN/WPD/WPG shall have the right to divert the Power or part thereof and sell it to any third party namely;

- i) Any consumer, subject to applicable Law; or

SJVN-Buying Entity

- ii) Any licensee under the Act;

SJVN shall request the concerned SLDC/RLDC to divert such power to third party as it may consider appropriate.

Provided that such sale of power to third party shall not absolve Buying Entity from its obligation to pay in full to SJVN for the obligation for the purchase of Power as per Schedule-A & B of this Agreement and any other outstanding payment liability of Buying Entity as per this Agreement.

6.6.3 The gains from the diversion and sale of such power to third party, which shall be the difference between selling price of such power in the power exchange and the expense borne for such power sale including energy charges, transmission charges; other incidental charges and shall be adjusted in accordance with Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 and subsequent amendments thereof and the deficit if any shall be made good by the Buying Entity.

6.6.4 Sale to any third party shall cease and regular supply of electricity to the Buying Utility shall commence and be restored within five (5) days from the date of clearing all outstanding dues payable to SJVN for the Power under this Agreement.

6.6.5 Further, the liability of the Buying Entity to make the Tariff Payments to SJVN as per Energy Accounts shall start from the day of such restoration of supply of power and shall continue for such periods wherein such power was made available by WPD/WPG for usage by the Buying Entity.

6.7 Disputed Bill

6.7.1 If the Buying Entity does not dispute a Monthly Bill or a Supplementary Bill raised by the other Party within fifteen (15) days of receiving such Bill, the same shall be taken as conclusive and binding.

6.7.2 If Buying Entity disputes the amount payable under a Monthly Bill or a Supplementary Bill, as the case may be, it shall pay undisputed invoice amount and it shall within fifteen (15) days of receiving such Bill, issue a notice (the "Bill DisputeNotice") to the invoicing Party setting out:

- i) the details of the disputed amount;

SJVN-Buying Entity

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

6.7.3 If the SJVN agrees to the claim raised in the Bill Dispute Notice issued pursuant to Article 6.7.2, the SJVN shall make appropriate adjustment in the next Monthly Bill. In such a case excess amount shall be refunded by SJVN to Buying Entity 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 Buying Entity and up to and including the date on which such payment has been received as refund. Similarly, in case, an amount becomes payable by the Buying Entity to SJVN from the disputed amount in the invoice after the dispute is resolved, then the same shall be paid along with interest at the same rate as Late Payment Surcharge, which shall be applied from the Due Date.

6.7.4 If SJVN does not agree to the claim raised in the Bill Dispute Notice issued pursuant to Article 6.7.2 it shall, within fifteen (15) days of receiving the Bill Dispute Notice, furnish a notice (Bill Disagreement Notice) to the disputing Party 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.

6.7.5 Upon receipt of the Bill Disagreement Notice by the Buying entity under Article 6.7.4, authorized representative(s) or a director of the board of directors/ member of board of the Buying entity and SJVN shall meet and make best endeavors to amicably resolvesuch dispute within fifteen (15) days of receipt of the Bill Disagreement Notice.

6.7.6 If the Parties do not amicably resolve the Dispute within fifteen (15) days of receipt of Bill Disagreement Notice pursuant to Article 6.7.4, the matter shall be referred to Dispute resolution in accordance with governing Laws and Dispute resolution in PSA.

6.7.7 For the avoidance of doubt, it is clarified that despite a Dispute regarding an Invoice, the Buying entity shall, without prejudice to its right to Dispute, be under an obligation to make payment of undisputed invoice amount in the Monthly Bill.

6.8 Quarterly and Annual Reconciliation

6.8.1 The Parties acknowledge that all payments made against Monthly Bills and

SJVN-Buying Entity

Supplementary Bills shall be subject to quarterly reconciliation and adjustment, if any, within thirty (30) days of the end of the quarter at the beginning of the following quarter of each Contract Year and annual reconciliation and adjustment, if any, at the end of each Contract Year within thirty (30) days thereof to take into account the Energy Accounts, Tariff adjustment payments, Tariff Rebate, Late Payment Surcharge, or any other reasonable circumstance provided under this Agreement.

- 6.8.2 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 Buying Utility and SJVN shall jointly sign such reconciliation statement. After signing of a reconciliation statement, the SJVN shall make appropriate adjustments in the following Monthly Bill, with Surcharge/Interest, as applicable., 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 from 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 12.

6.9 Renewable Purchase Obligation

- 6.9.1 The Buying Utility may identify the energy procured from the WPD/WPG Delivery Point to meet its renewable purchase obligations (as mandated by the Appropriate Commission).
- 6.9.2 SJVN shall provide such certificate identifying the quantum of Wind energy supplied by SJVN and being met by the Buying Utility for each Contract Year not later than 30 days of the reconciliation for such Contract Year.
- 6.9.3 The provisions of Article 4.4 of the PPA shall be applicable mutatis mutanda to this Agreement.
- 6.9.4 The compensation as per Article 4.4.3 of the PPA shall be applied to the amount of shortfall in achieving annual minimum CUF during any Contract Year. SJVN shall pass such compensation recovered from WPD/WPG under the SJVN-WPD/WPG PPA to Buying Entity not later than 15 days of receipt of the same from WPD/WPG under the SJVN-WPD/WPG PPA. However, this compensation shall not be applicable in events of Force Majeure identified under this Agreement affecting supply of power by SJVN/WPD/WPG, Grid Non-Availability beyond control of the WPD/WPG (as

SJVN-Buying Entity

applicable).

6.10 Payment of Supplementary Bill

6.10.1 SJVN may raise a “Supplementary Bill” for payment on account of:

- i) Change in Law as provided in Article 8 of PSA, or
- ii) Any subsequent revision in energy account by concerned RLDC/SLDC, as applicable, or
- iii) Payment under Article 6.11 and other charges, if any.

and such Supplementary Bill shall be paid by the Buying Entity.

6.10.2 Buying Entity shall remit all amounts due under a Supplementary Bill raised by the SJVN to the SJVN’s Designated Account by the Due Date.

6.10.3 In the event of delay in payment of a Supplementary Bill by Buying Entity beyond its Due Date, a Late Payment Surcharge shall be payable at the same terms applicable to the Monthly Bill in Article 6.3.

6.11 Generation Compensation for Offtake constraints:

If the Buying Utility does not off-take power scheduled by WPG, the penalty shall be in accordance with the Electricity (Promotion of Generation of Electricity from Must-Run Power Plant) Rules, 2021, as amended from time to time.

6.11.1 Generation Compensation in offtake constraints due to Grid Unavailability:

During the operation of the plant, there can be some periods where the plant can generate power but due to temporary transmission unavailability the power is not evacuated, for reasons not attributable to the WPD/WPG. In such cases the generation compensation shall be addressed by the Buying Entity in following manner:

Duration of Grid unavailability	Provision for Generation Compensation
Grid unavailability in a contract year as beyond 50 hours in a Contract Year as defined in the PPA	Generation Compensation = <i>(Tariff x RE power (MW) offered but not scheduled by Procurer) X 1000 X No. of hours of grid unavailability.</i> However, in case of third party sale or sale in the power exchange, as price taker, the 95% of the amount realized, after deducting expenses, shall be adjusted against the Generation compensation payable, on monthly basis.

SJVN-Buying Entity

The above compensation will be paid to the WPD/WPG on an annual basis.

6.11.2 Payment in case of reduced offtake:

In case the plant is available to supply power but the off take of power is not done by the Buying Entity / procurer, including non-dispatch of power due to noncompliance with “electricity (late payment surcharge and related matters) rules, 2022 notified by the ministry of power vide gazette notification dated 3rd june 2022” and any clarifications or amendment thereto, considering the principle of ‘must run’ status for re power, the procurer shall pay to the WPD/WPG, corresponding to the reduced off take, in terms of following manner:

Reduced offtake	Provision for Generation Compensation
Reduced off-take beyond 50 hours in a year, as defined in the PPA	Generation Compensation = $(\text{Tariff} \times \text{RE power (MW) offered but not scheduled by Procurer}) \times 1000 \times \text{No. of hours of Reduced Offtake}$ However, in case of third party sale or sale in the power exchange, as price taker, the 95% of the amount realized, after deducting expenses, shall be adjusted against the Generation compensation payable, on monthly basis.

The Tariff shall be the Applicable Tariff as per Article 9 of PPA.

The WPD/WPG shall be eligible for payment from the Buying Entity, corresponding to the reduced offtake of Power as per above mentioned methodology. The Payment is to be done as part of the energy bill for the successive month after receipt of Regional Energy Accounts (REA) / JMR /SEA. No Trading Margin shall be applicable on this Payment.

The WPD/WPG shall not be eligible for any compensation in case the Backdown is on account of events like consideration of grid security or safety of any equipment or personnel or other such conditions or Force Majeure. The Generation Compensation shall be paid as part of the energy bill for the successive month after receipt of Energy Accounts (REA/SEA). No Trading Margin shall be applicable on the Generation Compensation.

It is hereby clarified that for the purpose of Article 6.11 “generation” shall mean

SJVN-Buying Entity

scheduled/actual energy as applicable based on Energy Accounts.

- 6.11.3 For claiming compensation, the RPD must sell their power in the power exchange as a price taker. Thus, the compensation would be limited to the difference of the actual generation up to declared capacity subject to a maximum of up to the contracted capacity and the quantum of power scheduled by the Buying Utility.

ARTICLE 7: FORCE MAJEURE

7.1 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 taking place within the Indian territory, 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 SJVN or the Buying Entity whose performance has been affected by an event of Force Majeure.

Provisions of Force Majeure provided in SJVN-WPD/WPG PPA shall mutatis-mutandis apply to this Agreement and all associated obligations and liabilities shall be implemented on back to back basis. Further, in case Force Majeure provisions detailed hereunder are in conflict with SJVN- WPD/WPG PPA provisions, the provisions detailed in the SJVN-WPD/WPG PPA shall prevail.

7.2 Force Majeure Events:

- 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 and only if it is declared / notified by the competent state / central authority / agency (as applicable);
- b) 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 if and only if it is declared / notified by the competent state / central authority / agency (as applicable); or
- c) radioactive contamination or ionizing 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 Power Project by the Affected Party or those employed or engaged by the

SJVN-Buying Entity

Affected Party.

- d) An event of Force Majeure identified under SJVN-WPD/WPG PPA, thereby affecting delivery of power from WPD/WPG to Buying Entity(ies).

7.3 Force Majeure Exclusions

7.3.1 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/ Applicable Law; or
 - iii. Breach of, or default under this Agreement.
- g. Any pre-existing dispute on project land/substation and/or right-of-way or other project related issues

7.3.2 Not Used.

7.4 Notification of Force Majeure Event

7.4.1 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 fifteen (15) 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. The Party who receives the Force Majeure Notification, shall take a decision on the claim of occurrence of Force Majeure Event,

SJVN-Buying Entity

within 15 days of the receipt of the intimation supported with documentary evidence. It is to be noted that there shall have to be separate Force Majeure notice to be given by the Affected Party for RE power sources components. Consequence of Force Majeure notice of one part shall not have any consequence on the other part unless specified specifically by the Affected Party.

7.4.2 Provided that such notice shall be a pre-condition to the Affected Party's entitlement to claim relief under this Agreement. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed. 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.

7.4.3 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.

7.5 Performance Excused

7.5.1 Subject to Article 7.3.2 & 7.4, the Affected Party, to the extent rendered unable to perform its obligations or part of the obligation thereof under the PSA 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.

7.5.2 For the time period, as mutually agreed by the Parties, during which the performance shall be excused, the WPD/WPG shall be entitled for a day to day extension of the period provided for Financial Closure or Scheduled Commencement-of-Supply Date (SCSD) or the PPA period, as the case may be.

Provided always that a Party shall be excused from performance only to the extent reasonably warranted by the Force Majeure Event.

Provided further that, nothing shall absolve the Affected Party from any payment obligations accrued prior to the occurrence of the underlying Force Majeure Event.

7.6 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.

7.7 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 PSA. 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.

7.8 Duty to Perform and Duty to Mitigate

To the extent not prevented by a Force Majeure Event pursuant to Article 7.2, the Affected Party shall continue to perform its obligations pursuant to this Agreement, in line with provisions of Article 7.5. The Affected Party shall use its reasonable efforts to mitigate the effect of any Force Majeure Event as soon as practicable.

7.9 Available Relief for a Force Majeure Event

Subject to this Article 7:

- 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 of PPA;
- 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

SJVN-Buying Entity

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.

7.10 Available Relief & Termination Due to Force Majeure Event

- a) If, prior to the completion of the 180 (one hundred and eighty) Day period (or any extended period) for a Force Majeure Event commencing from the date of issuance of the Force Majeure Notice, the Parties are of the reasonable view that a 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 7.5 (Performance Excused); or that it is uneconomic or impractical to restore the affected Unit, then the Parties may mutually decide to terminate the PSA, and the termination shall take effect from the date on which such decision is taken.
- b) Without prejudice to the provisions of Article 7.10.(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 PSA in its sole discretion by issuing a notice to that effect.
- c) On termination of the PSA pursuant to Article 7.10.(b):
 - i. no Termination Compensation shall be payable to the WPD/WPG/SJVN.
 - ii. the SJVN shall be eligible for undisputed payments under outstanding Monthly Bill(s), before the occurrence of Force Majeure Event

ARTICLE 8: CHANGE IN LAW

8.1 Definitions

8.1.1 In this Article 8, the term “Change in Law” shall refer to the occurrence of any of the following events pertaining to this project only after the last date of Bid Submission, including any enactment or amendment or repeal of any law, leading to corresponding changes in the cost requiring change in tariff, and includes-

- a) a change in interpretation of any law by a competent court or
- b) a change in any domestic tax, including duty, levy, cess, charge or surcharge by the Central Government, State Government or Union territory administration leading to corresponding changes in the cost,
- c) a change in any condition of an approval or license obtained or to be obtained for purchase, supply or transmission of electricity, unless specifically excluded in the agreement for the purchase, supply or transmission of electricity, which results in any change in the cost,

but does not include-

- a) Any change in any withholding tax on income or dividends distributed to the shareholders of the generating company or transmission licensee; or
- b) change in respect of deviation settlement charges or frequency intervals by an Appropriate Commission.

8.1.2 The term “law” in this Article includes any Act, Ordinance, order, bye-law, rule, regulation, notification, for the time being in force, in the territory of India.

8.2 Relief for Change in Law

8.2.1 On the occurrence of a change in law, the monthly tariff or charges shall be adjusted and be recovered in accordance with the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 notified by the Ministry of Power on 22.10.2021 (and subsequent amendments, if any) to compensate the affected party so as to restore such affected party to the same economic position as if such change in law had not occurred.

8.2.2 For the purposes of 8.2.1 above, the affected party, which intends to adjust and recover the costs due to change in law, shall give a 21 days prior notice to the other party about the proposed impact in the tariff or charges, positive or negative, to be recovered from such other party.

SJVN-Buying Entity

- 8.2.3 The affected party shall furnish to the other party, the computation of impact in tariff or charges to be adjusted and recovered, within thirty days of the occurrence of the change in law or on the expiry of 21 days from the date of the notice referred to in 8.2.2 above, whichever is later, and the recovery of the proposed impact in tariff or charges shall start from the next billing cycle of the tariff.
- 8.2.4 The impact of change in law to be adjusted and recovered may be computed as one time or monthly charges or per unit basis or a combination thereof and shall be recovered in the monthly bill as the part of tariff.
- 8.2.5 The amount of the impact of change in law to be adjusted and recovered, shall be calculated in accordance with the formula given here under to calculate adjustment in the monthly tariff due to impact of change in law, which is non-recurring in nature.

Let financial impact of change in law = P

Then the modification in the monthly tariff (MT) for compensating the financial impact is given by $MT = (Y/X)$

Where X = estimated monthly electricity generation in kWh = $(1/12) \times [\text{Contracted Capacity of the power plant as per the Agreement (in MW)} \times \text{Capacity Utilization Factor (CUF), as per the Agreement (in \%)} \times 8760 \text{ hours} \times 10]$;

(*in case CUF is not provided, the availability factor mentioned in the agreement may be considered. However, it will be tried up with reference to the actual generation on annual basis.)

$$Y = \{ (P \times M_r)(1 + M_r)^n \} / \{ (1 + M_r)^n - 1 \}$$

Where, -

n = No. of months over which the financial impact has to be paid (subject to maximum of 180 months in case of the non-recurring fixed amount but in case of recurring impact it will be till the impact persists);

M_r = monthly rate of interest = $R / (12 \times 100)$ and

R = annual rate of interest on loan component (in %) as considered by the CERC in its order for Tariff Determination from Renewable Energy Sources for the year in which the Project is commissioned. In absence of relevant orders of CERC for the concerned year, the interest rate shall be average interest rate plus 200 basis points above the average State Bank of India marginal cost of funds based leading rate, of one-year tenor, prevalent during the last available six months for such period.

SJVN-Buying Entity

Further, generating company or intermediary procurer or the trading licensee shall true up the MT annually based on actual generation of the year so as to ensure that the payment to the affected party is capped at the yearly annuity amount.

Any such change, shall be considered upto 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

- 8.2.6 The recovery of the impacted amount, in case of the fixed amount shall be;
- a. within a period of one-hundred eighty months, in case of generation project; or
 - b. until the impact persists, In case of recurring impact.
- 8.2.7 The Appropriate Commission shall verify the calculation and adjust the amount of the impact in the monthly tariff or charges within sixty days from the date of receipt of the relevant documents under clause 8.3.1.
- 8.2.8 After the adjustment of the amount of the impact in the monthly tariff or charges under clause 8.2.7, the WPD/WPG, shall adjust the monthly tariff or charges annually based on actual amount recovered, to ensure that the payment to the affected party is not more than theyearly annuity amount.
- 8.2.9 If the event of any decrease in the project cost by the WPD/WPG or any income to the WPD/WPG on account of any of the events as indicated above, WPD/WPG shall pass on the benefit of such reduction at a rate as provided in Article 8.2 to SJVN which shall be further passed on to the Buying Entity. In the event of the WPD/WPG failing to comply with the above requirement, SJVN shall make such deductions in the monthly tariff payments on immediate basis. Further, at the time of raising of 1st Monthly Tariff Payment Bill, WPD/WPG shall be required to provide a statutory auditor certificate supported by Board Resolution in regard to implications (loss/ gain) arising out of Article 8.

8.3 Notification of Change in Law

- 8.3.1 The WPD/WPG shall, within thirty days of the coming into effect of the recovery of impact of change in law, furnish all relevant documents along with the details of calculation to the Appropriate Commission for adjustment of the amount of the impact in

SJVN-Buying Entity

the monthly tariff for charges.

- 8.3.2 Any notice service pursuant to this Article 8.3.1, 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.
- 8.3.3 “Project Cost” wherever applicable under this Article, shall mean the cost incurred by the WPD/WPG towards supply and services only for the Project concerned, upto the Actual Commissioning Date of the last part capacity or, Scheduled Commencement-of-Supply Date (SCSD) / Extended Scheduled Commencement-of-Supply Date (SCSD) whichever is earlier. For example, in case the Actual Commissioning Date of the last part capacity is 15.04.2022, Scheduled Commencement-of-Supply Date is 15.03.2022 and extended Scheduled Commencement-of-Supply Date is 01.04.2022, the Project Cost shall be determined as the cost incurred by the WPD/WPG upto 01.04.2022.

ARTICLE 9: EVENTS OF DEFAULT AND TERMINATION

9.1 Buying Entity Event of Default

9.1.1 The occurrence and continuation of any of the following events, unless any such event occurs as a result of a Force Majeure Event, shall constitute a Buying Entity Event of Default:

- (i) Any amount (with respect to a Monthly Bill or a Supplementary Bill) subject to Article 6.7 remains outstanding beyond a period of ninety (90) days after the Due Date and SJVN is unable to recover the amount outstanding from the Buying Entity through the Letter of Credit;
- (ii) The Buying Entity fails to evacuate power from the Delivery Points for a continuous period of one year.
- (iii) If (a) the Buying Entity 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 Buying Entity, or (c) the Buying Entity 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 Buying Entity will not be a Buying Entity 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 Buying Entity and expressly assumes all obligations of the Buying Entity under this Agreement and is in a position to perform them; or

- (iv) the Buying Entity repudiates this Agreement and does not rectify such breach within a period of thirty (30) days from a notice from SJVN in this regard; or
- (v) except where due to any SJVN's failure to comply with its material obligations, the Buying Entity is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the Buying Entity within thirty (30) days of receipt of first notice in this regard given by SJVN.
- (vi) Occurrence of any other event which is specified in this Agreement to be a material breach / default of the Buying Entity.

9.2 SJVN Event of Default

The occurrence and the continuation of any of the following events, unless any such event occurs as a result of a Force Majeure Event, shall constitute a SJVN's Event of Default:

- i. SJVN fails to supply power to the Delivery Points for a continuous period of one year.
- ii. if (a) the SJVN 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 SJVN, or (c) the SJVN 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 SJVN will not be a SJVN's 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 SJVN and expressly assumes all obligations of the SJVN under this Agreement and is in a position to perform them; or
- iii. SJVN repudiates this Agreement and does not rectify such breach even within a period of thirty (30) days from a notice from the Buying Entity in this regard; or
- iv. except where due to any Buying Entity's failure to comply with its material obligations, the SJVN is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the SJVN within thirty (30) days of receipt of first notice in this regard given by the Buying Entity.
- v. Occurrence of any other event which is specified in this Agreement to be a material breach or default of SJVN.

9.3 Procedure for cases of Event of Default

9.3.1 Upon the occurrence and continuation of any Event of Default under Article 9.1 & 9.2, the Party affected by such occurrence, shall have the right to deliver to the other Party a notice, stating its intention to terminate this Agreement (Preliminary Default Notice), which shall specify in reasonable detail, the circumstances giving rise to the issue of such notice.

9.3.2 Following the issue of Preliminary Default Notice, the Consultation Period of sixty (60) days or such longer period as the Parties may agree, shall apply and it shall be the

SJVN-Buying Entity

responsibility of the Parties to discuss as to what steps shall have to be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.

- 9.3.3 During the Consultation Period, the Parties shall, save as otherwise provided in this Agreement, continue to perform their respective obligations under this Agreement.
- 9.3.4 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 Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, the affected party may terminate this Agreement by giving a written Termination Notice of thirty (30) days to the other party.
- 9.3.5 Subject to the occurrence and continuation of default by as contained under Article 9.1 & 9.2 and before expiry of time period of 30 days as per Article 9.3.4 of this Agreement.
- 9.3.6 In case of Buying Entity's Event of Default, subject to the prior consent of SJVN, the Buying Entity shall novate its part of the PSA to any third party, including its Affiliates within the period of 210 days beyond the period as per Article 9.3.4.
- 9.3.7 In the event the aforesaid novation is not acceptable to SJVN, or if no offer of novation is made by the defaulting Buying Entity within the stipulated period as per Article 9.3.6, then SJVN may terminate the PSA and the defaulting Buying Entity shall be required to pay to the WPD/WPG/SJVN, damages, amount equivalent to 24 (twenty) months of average billing, or balance PPA period whichever is less, of charges for its contracted capacity with the stipulated availability, with the Project assets being retained by the WPD/WPG.
- 9.3.8 In the event of occurrence of an WPD/WPG Event of Default under the SJVN-WPD/WPG PPA, the WPD/WPG shall be liable to pay to SJVN, liquidated damages, as provided in the PPA for failure to supply power w.e.f. Scheduled Commencement of Supply Date (SCSD) in terms of the PPA. For other cases, the WPD/WPG shall be liable pay to SJVN/Buying Entity, damages, equivalent to 24 (twenty four) months of average billing, or balance PPA period whichever is less, of charges for its contracted capacity with the stipulated availability. SJVN/Buying Entity shall have the right to recover the said damages by way of forfeiture of bank guarantee/ Payment on Order

SJVN-Buying Entity

Instrument, if any, without prejudice to resorting to any other legal course or remedy.

9.4 Termination of back to back agreements

In case of termination of SJVN-WPD/WPG PPA, this Agreement shall automatically terminate, to the extent of particular SJVN-WPD/WPG PPA. Provided that in case of such termination as identified in this Article any pending monetary liabilities of either Party shall survive on the termination of this Agreement. In the event of termination of PPA/PSA on account of Event of Default by the Buying Entity, any damages or charges payable to the STU/ CTU/ RLDC/SLDC etc, for the Connectivity /GNA / Scheduling etc. of the plant / RE Project, shall be borne by the Buying Entity.

9.5 Specific Performance of the Agreement law

- 9.5.1 The Parties acknowledge that a breach of the obligations contained herein would result in injuries. The parties hereby also agree that this Agreement is specifically enforceable at the instance of either Party.
- 9.5.2 Subject to Applicable Law and as granted by the court of appropriate jurisdiction, Parties acknowledge that either party shall be entitled to seek specific performance of this Agreement in the event of a breach of the obligations or the terms and conditions contained herein.
- 9.5.3 Further, Parties hereby agree that nothing mentioned herein under this Agreement shall be taken to mean or construe that any penalty or damages shall be adequate compensation for the breach of the obligations or the terms & conditions contained herein.

ARTICLE 10: LIABILITY AND INDEMNIFICATION

10.1 Indemnity

10.1.1 The Buying Entity shall indemnify, defend and hold SJVN/WPD/WPG harmless against:

- a) any and all third party claims against SJVN/WPD/WPG 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 Buying Entity 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 SJVN/WPD/WPG from third party claims arising by reason of a breach by the Buying Entity of any of its obligations under this Agreement, (provided that this Article 10 shall not apply to such breaches by the Buying Entity, for which specific remedies have been provided for under this Agreement).

10.1.2 SJVN shall cause the WPD/WPG to indemnify, defend and hold the Buying Entity harmless against:

- a) any and all third party claims against the Buying Entity, 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 WPD/WPG 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 Buying Entity from third party claims arising by reason of a breach by WPD/WPG of any of its obligations, SJVN shall incorporate appropriate covenants in the PPA for the above obligations of WPD/WPG. In so far as indemnity to Buying Entity is concerned, WPD/WPG shall be the indemnifying party and not SJVN.

10.2 Procedure for claiming Indemnity

10.2.1 Third Party Claims

- a. Where the Indemnified Party is entitled to indemnification from the Indemnifying Party pursuant to Article 10.1.1(a) or 10.1.2(a), the Indemnified Party shall promptly notify the Indemnifying Party of such claim referred to in Article 10.1.1(a) or 10.1.2(a) in respect of which it is entitled to be indemnified.

SJVN-Buying Entity

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 12.3; 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 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 10.1.1(a) or 10.1.2(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.

10.3 Indemnifiable Losses

- 10.3.1 Where an Indemnified Party is entitled to Indemnifiable Losses from the Indemnifying Party pursuant to Article 10.1.1(b) or 10.1.2(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 nonpayment of such losses after a valid notice under this Article 10.3, such event shall constitute a payment default under Article 9.

10.4 Limitation on Liability

10.4.1 Except as expressly provided in this Agreement, neither the WPD/WPG nor SJVN nor Buying Entity(ies) 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, indirect or 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 Buying Entity(ies), the WPD/WPG or others), strict liability, contract, breach of statutory duty, operation of law or otherwise.

10.4.2 SJVN/WPD/WPG shall have no recourse against any officer, director or shareholder of the Buying Entity or any Affiliate of the Buying Entity or any of its officers, directors or shareholders for such claims excluded under this Article. The Buying Entity shall have no recourse against any officer, director or shareholder of SJVN/ WPD/WPG, or any affiliate of SJVN/ WPD/WPG or any of its officers, directors or shareholders for such claims excluded under this Article.

10.5 Duty to Mitigate

10.5.1 The Parties shall endeavour to take all reasonable steps so as mitigate any loss or damage which has occurred under this Article 10.

ARTICLE 11: ASSIGNMENT AND CHARGES

11.1 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 other than by mutual consent between the Parties to be evidenced in writing. Provided that, such consent shall not be withheld if SJVN seeks to transfer to any affiliate all of its rights and obligations 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.

11.2 Permitted Charges

Neither Party shall create or permit to subsist any encumbrance over all or any of its rights and benefits under this Agreement.

ARTICLE 12: GOVERNING LAW AND DISPUTE RESOLUTION

12.1 Governing Law

12.1.1 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.

12.2 Amicable Settlement and Dispute Resolution

12.2.1 Amicable Settlement

- i. SJVN or the Buying Entity as the case maybe 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 (“Noticee”), which shall contain:
 - (a) a description of the Dispute;
 - (b) the grounds for such Dispute; and
 - (c) all written material in support of its claim.
- ii. The Noticee shall, within thirty (30) days of issue of Dispute Notice issued under Article 12.2.1(i), furnish:
 - (a) counter-claim and defenses, if any, regarding the Dispute; and
 - (b) all written material in support of its defenses and counter-claim.
- iii. Within thirty (30) days of issue of Dispute Notice by the Party issuing the Notice pursuant to Article 12
 - (a) if the Noticee does not furnish any counter claim or defense under Article 12.
 - (b) or thirty (30) days from the date of furnishing counter claims or defense by the Noticee, both the Parties to the Dispute shall meet to settle such Dispute amicably. If SJVN and Buying Entity fail to resolve the Dispute amicably within thirty (30) days from the later of the dates mentioned in this Article 12.2.1.
 - (c) the Dispute shall be referred for dispute resolution in accordance with Article 12.3.

12.3 Dispute Resolution

12.3.1 Dispute Resolution by the Appropriate Commission

- i) In the event, CERC is the Appropriate Commission, any dispute that arises claiming any change in or regarding determination of the tariff or any tariff related

SJVN-Buying Entity

matters, or which partly or wholly could result in change in tariff, such dispute shall be adjudicated by the CERC. All other disputes shall be resolved by the Dispute Resolution Committee set up by the Government, failing which by arbitration under the Indian Arbitration and Conciliation Act, 1996. In the event SERC/JERC is the Appropriate Commission, then all disputes shall be adjudicated by the SERC/JERC or shall be referred for arbitration by the SERC / JERC.

- ii) SJVN shall be entitled to co-opt the Buying Entity(ies) and/or the lenders (if any) as a supporting party in such proceedings before the Appropriate Commission.

12.4 Parties to Perform Obligations

12.4.1 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 13: MISCELLANEOUS PROVISIONS

13.1 Amendment

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

13.2 Third Party Beneficiaries

13.2.1 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.

13.3 Waiver

13.3.1 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 authorized representative of such Party:

13.3.2 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 the relinquishment of any such right or any other right under this Agreement, which shall remain in full force and effect.

13.4 Confidentiality

13.4.1 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.

13.5 Severability

13.5.1 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.

13.6 Notices

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

SJVN-Buying Entity

13.6.2 If to the Buying entity, 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:

Name:
Designation:
Address:
Email :
Fax. No. :
Telephone No.:

13.6.3 If to SJVN, all notices or communications must be delivered personally or by registered post or facsimile or any other mode duly acknowledged to the address below:

Name:
Designation:
Address: SJVN LTD, 6th Floor, Tower-1, NBCC Office Complex, East Kidwai Nagar, New Delhi- 110023
Email:
Fax. No:
Telephone No

13.6.4 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.

13.6.5 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.

13.7 Languages

13.7.1 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

SJVN-Buying Entity

interpreted in accordance with English language.

13.7.2 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.

13.8 Restriction of Shareholders / Owners' Liability

13.8.1 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.

13.9 Taxes and Duties

13.9.1 The Buying Entity shall bear and promptly pay all statutory taxes, duties, levies and cess, assessed/ levied on the Buying Entity, contractors or their employees that are required to be paid by the Buying Entity as per the Law in relation to the execution of the Agreement.

13.9.2 SJVN shall be indemnified and held harmless by the Buying Entity against any claims that may be made against SJVN in relation to the matters set out in Article 13.9.1.

13.9.3 SJVN shall not be liable for any payment of taxes, duties, levies, cess whatsoever for discharging any obligation of the Buying Entity by SJVN on behalf of Buying Entity.

13.10 No Consequential or Indirect Losses

13.10.1 The liability of Buying Entity and SJVN shall be limited to that explicitly provided in this Agreement.

Provided that notwithstanding anything contained in this Agreement, under no event shall SJVN or Buying Entity claim from one another any indirect or consequential losses or damages.

13.11 Order of priority in application

13.11.1 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:

SJVN-Buying Entity

- i. Applicable Law, Rules and Regulations framed thereunder;
- ii. the Grid Code; and
- iii. the terms and conditions of this Agreement;

13.12 Independent Entity

13.12.1 The Buying Entity shall be an independent entity performing its obligations pursuant to the Agreement.

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

13.13 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.

13.14 The duly executed / to be executed Power Purchase Agreement between SJVN and WPD/WPG shall be attached to this Agreement and shall be read along with Agreement as a composite back to back process for Generation and supply of electricity to Buying entity(ies), particularly, to fulfill the Renewable Purchase Obligations under the provisions of the Electricity Act, 2003 and the Regulations notified thereunder.

IN WITNESS 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
[SJVN]

For and on behalf of
[_____]

SJVN-Buying Entity

Signature with seal

1. Witness

Signature with seal

1. Witness

SCHEDULE A

PPA

SCHEDULE B

(List of RE Power Developers)

SCHEDULE C: Billing Methodology

AMOUNT REALISATION FOR SALE OF POWER

- (i) The billing to Buying Entity shall be done by SJVN for realization of amount for Power.
- (ii) The payments to be made by Buying Entity to SJVN for the Power in a Monthly Invoice shall comprise of amounts to be realized for Power.
- (iii) The Bills shall be raised by SJVN to Buying Entity as mentioned under:

- a) Provisional billing Amount for power for the applicable month (invoice) $A_p = (E_p \times T_p)$

Where,

$A_p =$ Provisional Billing amount (in Rs.) for Power for the applicable Month;

$E_p =$ No. of units (kWh) as per the REA/SEA/JMR etc.

$T_p =$ tariff (in Rs./kWh) of the respective Project as per Schedule B +
Trading Margin of SJVN @ Rs 0.07/kWh i.e Rupees Seven Paisa/kWh)

- b) Final billing will be computed through Credit/Debit note as applicable based on Final REA/SEA/JMR/ etc. for applicable month.

**POWER PURCHASE AGREEMENT
FOR
PROCUREMENT OF _____ MW WIND POWER**

ON LONG TERM BASIS

Between

_____ **[INSERT NAME OF WIND POWER
DEVELOPER / WIND POWER GENERATOR]**

AND

SJVN LIMITED

_____ **[INSERT MONTH AND YEAR]**

This Power Purchase Agreement is made on the _____ day of _____ of 2024 at _____ Between _____ [Insert name of the Wind 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 Wind Power Developer] (hereinafter referred to as “**Wind Power Developer or WPD**”, 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

SJVN Limited, a Company incorporated under the Companies Act 1956, having its registered office at _____ and Liaison Office / Expediting Office at _____ (hereinafter referred to as “**SJVN**”, or “**Intermediary Procurer**” or “**Buyer**” which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and assignees) as a Party of the **Second Part**;

The WPD and SJVN 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 renewable energy-based project installation in the country and has set an ambitious target to achieve 500 GW of non-fossil-based installed energy capacity by the year 2030.
- B. Ministry of Power, Government of India has issued “**Guidelines for Tariff Based Competitive Bidding Process for Procurement Power from Grid Connected Wind Power Projects**” vide No. 27/02/2023-RCM dated 26.07.2023, including subsequent amendments and clarifications thereto, if any, issued until _____ [Enter the last date of bid submission of the RfS].
- C. SJVN Limited has been designated as a Renewable Energy Implementing Agency (REIA)/ Intermediary Procurer vide Office Memorandum F. No. 283/33/2020-GRID SOLAR dt 24th April 2023 issued by Ministry of New and Renewable Energy (MNRE), Govt of India and has been tasked to aggregate the power purchased from different generators and sell it to the distribution licensee(s) / consuming entities / open access consumers.
- D. SJVN had initiated a Tariff-Based Competitive Bid Process for Selection of Wind Power Developers for setting up of 600 MW ISTS-connected Wind Power Projects in India under Tariff-Based Competitive Bidding on the terms and conditions contained in the Request for Selection (herein after referred to as ‘**RfS**’ issued by SJVN vide RfS No. _____ dated _____ Including its subsequent amendments and clarifications, if any.
- E. The WPD _____ [Insert name of the Bidding Company] has been

selected in the Competitive Bidding Process, {in case Bidding Company is executing the Project through SPV} and has constituted a Special Purpose Vehicle, _____ [Insert the name of SPV, if applicable] (hereinafter referred to as 'WPD') for development, generation and supply of electricity from the _____ MW Wind Power Project to be established by WPD anywhere in India and for supply of such electricity by SJVN as an Intermediary Agency to the Buying Utility(ies) (as defined) under a Power Sale Agreement to be entered into between SJVN and such Buying Utility (ies).

- F. SJVN, based on the above has issued the Letter of Award vide No. _____ dated _____ in favour of the _____ [Insert the name of Bidding Company] for development and establishment of the _____ MW Wind Power Project in the State(s) of _____ and in the territory of _____ [Insert name of the RLDCs] and supply of Wind Power for a contracted capacity of _____ MW as per the terms and conditions contained in the RfS, and standard draft of this Power Purchase Agreement circulated at the time of the bidding, including amendments and clarifications thereto and other bidding documents as well as the conditions contained in the aforementioned Letter of Award.
- G. SJVN has agreed to purchase such Wind Power from the WPD/WPG as an Intermediary Procurer for onward back-to-back sell to Buying Utility(ies) to be identified and with whom SJVN has agreed to sign/has signed a binding and enforceable Power Sale Agreement (PSA) with due regulatory approvals required to be taken by the Buying Utility(ies), as per the provisions of this Agreement.
- H. In terms of the RfS, the WPD/WPG has furnished the Performance Bank Guarantee/ Payment on Order Instrument, as the case may be, in the sum of Rs _____ in favour of SJVN as per the format provided as a part of the RfS Documents and a copy of the Bank Guarantee/ Payment on Order Instrument/ Letter of Undertaking as per RfS, as applicable provided is in Schedule – 1/ Schedule - 2 to this Agreement.
- I. The WPD/WPG has fulfilled the terms and conditions of the bidding and the Letter of Award for signing this PPA as a definitive agreement for establishing the Wind Power Project of _____ MW at _____, for generation and sale of power to SJVN, subject to the provisions of this Agreement.
- J. The parties have agreed to execute this Power Purchase Agreement in terms of the provisions of the RfS documents and the Letter of Award, the recitals hereinabove, in regard to the terms and conditions for establishment of the Wind Power Project at _____, for generation and supply of _____ MW contracted capacity Wind Power to SJVN at the tariff as per Article 9 (herein below) for onward back-to-back sell to the Buying Utility(ies), under respective PSA;

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 explicitly defined herein or repugnant to the context, shall have the same meaning as attributed to them by the Electricity Act, 2003, and the rules or regulations formulated thereunder, including those issued/promulgated by the Appropriate Commission (as delineated hereunder). Such interpretations shall encompass amendments or re-enactments made to these statutory provisions over time.

“Act” or “Electricity Act, 2003”	Shall mean the Electricity Act, 2003, and include any modifications, amendments, or substitutions made to it periodically.
Affiliate	Shall mean a company that, directly or indirectly, (i) controls, or (ii) is controlled by, or (iii) is under common control with, a company developing a Project or a Member within a Consortium engaged in Project development. Control, in this context, signifies the ownership, whether direct or indirect, of more than 50% (fifty percent) of the voting shares of the specified company or the right to appoint a majority of Directors to the Board of Directors.
“Agreement” or "Power Purchase Agreement" or "PPA"	The term refers to this Power Purchase Agreement, including its recitals, schedules, and appendices, as well as any amendments or modifications made periodically in accordance with the terms outlined herein.
"Appropriate Commission"	Unless otherwise stated or the context requires, Appropriate Commission shall mean Central/State Electricity Regulatory Commission, as applicable
“Awarded Capacity”	Means _____ MW [enter the capacity as awarded by SJVN as per the LoA]
“Backdown”	Means part of Contracted capacity available for scheduling but not scheduled based on instructions from Buying Utility/SLDC /RLDC, as the case may be;
"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 WPD/WPG and SJVN, a day other than Saturday, Sunday, or a statutory holiday, on which the banks remain open for business in Delhi and _____ [insert name of State where WPD/WPG Registered Office is located] both;
“Bulk Consumer”	Shall have the same meaning as provided in CERC (Indian Electricity Grid Code) Regulations, 2023 as amended from time to time;
“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;
“Commencement of Power Supply” or “Commencement of Supply of Power Date” or “CSD”	means the date when the commercial offtake of power supply under the PPA begins. Before officially declaring the commencement of power supply, the WPD is required to submit a Certificate of Commissioning (COD Certificate) upon receiving the trial run certificate from the relevant RLDC for the corresponding Installed Capacity. This submission of documents, including the COD certificate, forms an integral part of the necessary documentation to be provided to SJVN.
“Commissioning”	The Project shall be deemed commissioned upon the completion of the installation of all equipment as per declared/rated Project Capacity as specified in the Grid Connected Wind Power Projects. This must be ensured that the Wind Power configuration is established, and energy has been successfully integrated into the grid, adhering to the Commissioning procedures outlined in the PPA in conjunction with the RfS. The Project shall be commissioned in strict compliance with the stipulations outlined in the Grid Code.
“Commercial Operation Date (COD)”	Shall mean the date when the commissioning certificate is issued, confirming the successful commissioning of the Project or the last part capacity of the Project, as applicable, and the consistent delivery of power from the Projects in accordance with the stipulations of the Power Purchase Agreement (PPA). The issuance date of the Commissioning Certificate is considered the date when the WPD/WPG has effectively demonstrated compliance with all requirements for commissioning and commercial operation for the entire Contracted Capacity. It also marks the initiation of the supply of Wind Energy at the full contracted capacity, as outlined in the provisions of the PPA, in conjunction with the provisions of the Request for Selection (RfS).
“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 WPD/WPG Preliminary Default Notice or SJVN 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;

<p>“Contract Year”</p>	<p>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:</p> <p>(i) in the financial year in which commissioning of the first part capacity of the Contracted Capacity would occur, the Contract Year shall commence from the date of commissioning of first capacity 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</p> <p>(ii) provided further that the last Contract Year of this Agreement shall end on the last day of the Term of this Agreement</p>
<p>"Contracted Capacity"</p>	<p>shall mean _____ [Insert capacity] MW, which is the AC capacity contracted with SJVN for supply of power to SJVN by the WPD/WPG at the Delivery Point.</p>
<p>“Delivery Point” / “Interconnection Point”</p>	<p>shall mean the point(s) at the voltage level of 220 kV or above of the ISTS Sub-station/ InSTS (at voltage level as applicable by State regulations) including the transmission line connecting the Wind Power Projects with the substation system as specified in the RfS document. Metering shall be done at this interconnection point(s) where the power is injected into. For interconnection with grid and metering, the WPD/WPG 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 thereunder by the appropriate commission or CEA.</p> <p>Pursuant to Article 4.2.6, 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 WPD/WPG 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 Buying Utility.</p>
<p>"Due Date"</p>	<p>The term "Due Date" as defined in this context refers to the sixtieth (60th) day subsequent to the receipt, in hard copy, and the proper acknowledgment by SJVN, of a Monthly Bill (inclusive of all pertinent documents) or a Supplementary Bill. If the specified day is not a Business Day, the ensuing immediate Business Day shall be considered the due date, by which the payment for the respective Monthly Bill or Supplementary Bill is obligated to be made by SJVN.</p>
<p>“Day”</p>	<p>shall mean a day, if not a Business Day, the immediately succeeding Business Day.</p>

"Week"	shall mean a calendar week commencing from 00:00 hours of Monday, and ending at 24:00 hours of the following Sunday;
"Month"	shall mean a period of thirty (30) days from (and excluding) the date of the event, where applicable, else a calendar month;
"DISCOM" or "Buying Entity" or "Buying Utility" or "Distribution Licensees"	shall mean an End Procurer who has agreed to sign/has signed the back-to-back PSA(s) with SJVN for purchase of Wind power. It is clarified that all obligations of SJVN under this Agreement shall be deemed to be the obligations of Buying Entities with which SJVN has signed/will sign PSA.
"Effective Date"	shall have the meaning ascribed thereto in Article 2.1 of this Agreement;
"Capacity Utilization Factor" or "CUF"	shall have the same meaning as provided in CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2020 as amended from time to time. However, for avoidance of any doubt, it is clarified that the CUF shall be calculated on the Capacity at the "Delivery/Inter-connection/Metering Point (X) and the Contracted Capacity (Y) as per following illustration; Illustration: CUF shall be calculated based on the annual energy injected and metered at the Delivery Point. In any Contract Year, if 'X' MWh of energy has been metered out at the Delivery Point for 'Y' MW Project capacity, $CUF = (X \text{ MWh} / (Y \text{ MW} * 8766)) * 100\%$. Declared CUF for this Project shall be _____% (to be revised as applicable).
"Dispute"	<p>The term "Dispute" within the context of this Agreement denotes any form of disagreement or variance between SJVN and WPD/WPG, arising from or associated with this Agreement. Such disputes include, but are not limited to, issues pertaining to the interpretation and scope of the terms outlined in Article 16 of this Agreement.</p> <p>The Parties explicitly affirm and confirm that, in all instances of disputes, WPD/WPG is vested with absolute authority to act as the representative for the Power Generators specified in Appendix-A, particularly in relation to SJVN. It is clarified that SJVN is exempted from the obligation to engage with or address any such disputes involving WPD/WPG and/or other Power Generators mentioned. This exemption holds notwithstanding any differences or disputes that may arise between WPD/WPG and the aforementioned Power Generators.</p>
"Electricity Laws"	The term "Electricity Laws" herein refers to the Electricity Act, 2003, its associated rules and regulations, amendments, replacements, and supplementary laws related to electricity, including regulations formulated by the Appropriate Commission within their jurisdiction.

"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; SJVN reserves the right to choose from any of the above, i.e. JMR/SEA/REA, based on the acceptance of the same by the Buying Utility;
"Expiry Date"	Expiry Date" refers to the date transpiring twenty-five (25) years from the Scheduled-Commencement-of-Supply-Date (SCSD) or from the date of commissioning of the full project capacity (to the extent of extension given by SJVN), whichever is later. Any extension beyond this period is subject to mutual agreement by the Parties in accordance with the terms outlined in this Agreement.
"Force Majeure" or "Force Majeure Event"	shall have the meaning ascribed thereto in Article 11 of this Agreement;
"Event of Default"	shall mean the events as defined in Article 13 of this Agreement;
"GNA Regulations"	refers to the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022 and its amendments if any issued thereafter. Within the context of this Agreement, any mention of the terms "connectivity," "network access," or "general network access" shall be construed in accordance with the provisions outlined in these Regulations.
"Guidelines: or "Scheme"	shall mean the Guidelines for Tariff Based Competitive Bidding Process for Procurement Power from Grid Connected Wind Power Projects" vide No. 27/02/2023-RCM dated 26.07.2023, including subsequent amendments and clarifications notified thereof until the last date of bid submission of the RfS;
"Grid"	shall mean as per the definition contained in the Act.
"Grid Code" or "Indian Electricity Grid Code" or "IEGC" or "State Grid Code"	shall mean the Central Electricity Regulatory Commission (Indian Electricity Grid Code) Regulations, 2023, as 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.;
"Insurances"	shall mean the insurance cover to be obtained and maintained by the WPD/WPG in accordance with Article 8 of this Agreement;

“Indian Governmental Instrumentality”	shall mean the Government of India, Governments of State(s) ...State(s) in India, where the Power Project, SJVN, Buying Entity and WPD/WPG 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;
“Installed Capacity” or “Project Capacity”	Shall mean the maximum AC capacity at the Delivery Point, eligible for scheduling under the Power Purchase Agreement (PPA). It is imperative to note that, before the initiation of power supply under the PPA, SJVN will verify the installation and commencement of power supply from the corresponding committed rated capacity of Wind components declared in the PPA. This configuration aligns with the "installed capacity" for which connectivity is granted to WPD/WPG under the GNA Regulations.
“Declared Capacity” or “Offered Capacity” or “Offered Power”	shall mean the schedule (in MW) as declared by the developer at the Delivery Point (ISTS Substation) for any time-block of the day as defined in the Grid Code.
"Interconnection Facilities"	shall mean the facilities on WPD/WPG’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;
“Intermediary agency” or “Intermediary nodal agency” or “Intermediary Procurer” or “REIA”	shall mean SJVN Limited (SJVN);
“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 have same meaning as defined in RfS Document.
“Late Payment Surcharge”	shall have the meaning ascribed thereto in Article 10.3.3 of this Agreement;
DSM	Deviation Settlement Mechanism
“Letter of Credit” or “L/C”	shall have the meaning ascribed thereto in Article 10.4 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;
"MNRE"	shall mean the Ministry of New and Renewable Energy, Government of India;
"Party" and "Parties"	shall have the meaning ascribed thereto in the recital to this Agreement;
"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 WPD/WPG to SJVN in the form attached hereto as Schedule 1;
"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 Development agency Limited (IREDA) or (ii) Power Finance Corporation Limited or (iii) REC Limited., submitted by the WPD/WPG to SJVN as an alternative to submission of PBG, issued in the form attached hereto as Schedule 2;
"Pooling Substation/ PoolingPoint"	means a point where more than one Wind 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 WPD/WPG(s) to get connected to the Delivery Point. The voltage level for such common line shall be as per the voltage level specified in "Interconnection Point". Further, the metering of the pooled power shall be done at the injection point, i.e. the ISTS 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 WPD/WPG to obtain and furnish the meter reading jointly by the WPD/WPG and any competent authority (State or Central Government) (if applicable).
"Power Sale Agreement" or "PSA"	shall mean the back-to-back power sale agreement entered between the Buying Entity and SJVN (Buyer- Buying Entity(ies) PSA) for onward sale of power being procured under 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 within India and internationally from time to time by power 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
"Cumulative Availability"	Shall mean for any period, the average of the daily Availability for all the time blocks during the such period / Month/ Contract Year (as applicable) expressed as percentage of the Contracted capacity in MW.
"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 WPD/WPG has sought financing for the Wind RE Power project including the loan agreements, security documents, notes, indentures, security agreements, letters of credit and other documents, as may be amended, modified, or replaced from time to time, but without in anyway increasing the liabilities of SJVN;
"RBI"	shall mean the Reserve Bank of India;
"₹", "Rupees", "Rs."	shall mean Indian rupees, the lawful currency of India;
"Rebate"	shall have the same meaning as ascribed thereto in Article 10.3.5 of this Agreement;
"Request for Selection / RfS /Bidding Documents"	shall mean Request for Selection Documents issued by SJVN vide RfS No. _____ dated _____ including subsequent clarifications, amendments and addenda thereof.
"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;
"Scheduled Commencement of Power Supply Date" or "SCSD"	Shall mean in relation to the contracted capacity or the part of the contracted capacity, the scheduled date _____ [Insert date] corresponding to the scheduled date of commencement of supply as indicated in the RfS (Request for Selection) documents;

“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 Delivery Point is located;
“SLDC Charges”	shall mean the charges levied by the SLDC of the state wherein the Wind Power Project is located;
“SJVN”	shall mean SJVN Limited;
“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 Commencement of Power Supply”	shall mean, “Part Commencement of Supply of Power from the Project shall be accepted by the Procurer subject to the condition that the Minimum Capacity for acceptance of first and subsequent part(s) shall be 50 MW (with the last part being the balance Contracted Capacity), without prejudice to the imposition of penalty, in terms of the PPA on the part which has not yet commenced supply of power. Minimum part-capacities in case of STU-connected Projects may be specified in the bidding documents. However, the SCSD will not get altered due to part-commencement of supply of power. Irrespective of dates of part or full commencement of supply of power, the PPA will remain in force for the period specified in the RfS.”
“Unit Commercial Operation Date (UCOD)”	shall mean the date of issuance of commissioning certificate for the respective part(s) of the Contracted Capacity subsequent to the demonstration of the compliance of commissioning as per this Agreement, witnessed by the duly constituted Committee. UCOD also involves the commencement of injection and scheduling of power from the Project to the Delivery Point, along with the availability and installation of all necessary arrangements and equipment, including the RTU, for power scheduling and data transmission to the concerned authority in accordance with applicable regulations. In essence, UCOD aligns with the COD declared for the specific unit/part of the Project in accordance with the provisions of the Grid Code.
“RE Power”	shall mean the power generated from a Renewable Energy Project;

“Wind Power”	shall mean power generated from the Wind Power Project;
“Wind Power Project” or “Power Project” or “Project”	shall mean the Wind Power generation facility of Contracted Capacity of _____ [Insert capacity] MW, located at _____ [Insert name of the place] in _____ [Insert name of the District and State] that uses wind for conversion into electricity through Wind Turbine Generator that is being set up by the WPD/WPG to provide Wind Power to SJVN as per the terms and conditions of this Agreement, the facility having a separate control system, metering and a single point of injection into the grid at Delivery/Interconnection/Metering point at ISTS substation or in case of sharing of transmission lines, by separate injection at pooling point. The project shall include all units and auxiliaries such as water supply, treatment or storage facilities; bay/s for transmission system in the switchyard, 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;
“Wind Power Developer” or “WPD” or “Wind Power Generator” or “WPG”	Means an entity or individual engaged in the development, operation, and maintenance of Wind Power Projects for supply of Wind Power to SJVN/End procurer. This encompasses the establishment and management of project(s) to harness wind energy and convert it into electricity along with other profile characteristics as specified in the RfS. WPG/WPD are responsible for the entire lifecycle of wind power projects, from site selection and development to the construction, operation, and ongoing maintenance of the wind turbines and associated infrastructure. Throughout the entire agreement, the terms 'WPD,' or 'Wind Power Developer,' or 'WPG,' and or 'Wind Power Generator' shall be construed to have the same meaning.

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 Schedules 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 to day 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 For avoidance of any doubt, it is clarified that irrespective of the contractual arrangement between the WPD /WPG, all the generator related liabilities, under the Guidelines and the PPA hereunder, shall be of the entity signing the PPA, and recognized as ‘Wind Power Generator’ (WPG). Further, subject to the provisions of this Agreement, SJVNs liability is limited to WPD/WPG only and SJVN is not responsible for any dispute between WPD/WPG.
- 1.2.19 This Agreement and other documents such as Request for Selection Documents, letter of Award, Guidelines including subsequent clarifications, addenda, amendments and further

SJVN-WPD PPA

clarifications in regard to the tender as well as Power Sale Agreement 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 read with Power Sale Agreement
- 2) RfS Documents

ARTICLE 2: TERM OF AGREEMENT

2.1 Effective Date

- 2.1.1 This Agreement shall come into effect from date of signing of this Agreement by both the parties and such date shall be the Effective Date for the purpose of this Agreement.
- 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 Notwithstanding the Effective Date, the condition precedent for the enforcement of the obligations of either party against the other under this Agreement shall be that, within 60 days of submission of application/petition for tariff adoption in Appropriate Commission or within 120 days from the signing of PSA, whichever is more, SJVN/Buying Entity shall obtain adoption of tariff from CERC/SERC as applicable, on the terms and conditions contained in this Agreement read with the terms and conditions contained in the PSA entered into between SJVN and the Buying Entity(ies) for the entire contracted capacity on back-to-back basis. In case, the PSA is signed only for the part of the capacity with the Buying Utilities, WPD/WPG and SJVN may mutually agree to implement this agreement limited to the said capacity, in which event the contracted capacity for all intent and purposes considered to be the reduced capacity. The Parties agree that in the event, the order of adoption of tariff as mentioned above is not issued by the CERC/SERC within the time specified above, the provisions of Article 2.1.4 shall apply.
- 2.1.4 Pursuant to Article 4.2.6, if parties have not mutually extended the time period as stipulated under Article 2.1.3 and the order from the Appropriate Commission is issued within the timeline as per Article 2.1.3, no extension for SCSD shall be given. However, if the requisite Appropriate Commission's order is issued after the timeline as per Article 2.1.3, this shall entail a corresponding extension in SCSD for equal number of days for which the order has been delayed beyond such period as specified in Article 2.1.3.

Provided further that in case, the order of adoption of Tariff and/or procurement approval from CERC and/or SERC as required under Article 2.1.3 above is not received or delayed, either Party shall not be liable for payment of any compensation to other Party for any loss or damage on account of such delay in availability or non-availability of the approval of CERC/SERC, as the case may be.

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. The Expiry Date of the Agreement may be further extended upto 35 years, on mutually agreed terms and conditions and approved by the Appropriate Commissions, at least one hundred eighty (180) days prior to the Expiry Date, or otherwise as may be mutually agreed provided the arrangements with the land and infrastructure owning agencies, the relevant transmission utilities and system operators permits operation of the Project beyond such extended period.
- 2.2.2 The WPD / WPG is free to operate their plants beyond the Expiry Date if other conditions

like land lease / Right to Use of Land (as applicable), permits, approvals and clearances etc. allow. In such case unless otherwise agreed by the SJVN/Buying Entity, as the case may be, shall not be obligated to procure power beyond the Expiry Date.

2.3 Early Termination

- 2.3.1 This Agreement shall terminate before the Expiry Date if either SJVN or WPD terminates the Agreement, pursuant to Article 13 of this Agreement and not otherwise.
- 2.3.2 In case the SJVN-Buying Entity PSA corresponding to the Contracted Capacity is terminated or modified for a reduced capacity during the Term of this Agreement, the event will result in Termination of this Agreement or pro-rata reduction in Contracted Capacity of this Agreement, as the case may be. In such scenario, any termination compensation payable by the respective Buying Entity, will be passed on to the WPD/WPG, after deducting SJVN's costs, if any.
- 2.3.3 In case SJVN is unable to execute the PSA for the capacity allocated under the RfS Document within 180 days from the date of issuance of LoA or any mutually extended period, capacity under this agreement shall stand reduced on prorata basis without creating any liability to either parties In such case, if such reduced capacity turns out to be less than 50% of the awarded Capacity and the WPD/WPG desires to abandon/ exit the PPA for such capacity also, WPD/WPG shall be allowed to exit this Agreement without any liability to either parties and Instruments provided by the WPD/WPG for the Performance of this Agreement i.e. Performance Bank Guarantee shall be released by SJVN without any deduction.

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: PERFORMANCE SECURITY AND CONDITIONS SUBSEQUENT

3.1 Satisfaction of conditions subsequent by the WPD/WPG:

- (i) The WPD/WPG agrees and undertakes to duly perform and complete all of the required Project financing arrangements and achieve the Financial Closure at the WPD/WPG's own responsibility, cost and risk by _____ [Insert date as per RfS conditions], unless such completion is affected by any Force Majeure event, or for the activities specifically waived in writing by SJVN.
- (ii) The WPD/WPG shall make Project financing and furnish other supporting documents / certificates to SJVN in regard to the due compliance with the Conditions Subsequent within the deadline as above.
- (iii) The WPD/WPG shall also submit the Detailed Project Report along with proposed commissioning schedule of the Project within the above deadline.
- (iv) Any other details sought as per the checklist communicated by SJVN in line with Annexure-C of the RfS

3.2 Consequences of non-achievement of conditions subsequent and Financial Closure

- 3.2.1 In case of a failure on the part of WPD to fulfil the conditions subsequent and submit the documents as provided in Article 3.1 above, SJVN shall encash the Performance Bank Guarantee/Payment on Order Instrument submitted by the WPD, and may terminate this Agreement and remove the Project from the list of the selected Projects by giving a notice to the WPD in writing of at least seven (7) days, unless the delay (subject to the conditions that WPD has made / is making all possible efforts) is solely on account of delay in allotment of land by the Government not owing to any action or inaction on the part of the WPD or caused due to a Force Majeure. Unless extended as per provisions of Article 3.2.2(i) of this Agreement in writing, SJVN may terminate this Agreement upon the expiry of the 7th day of the above notice.
- 3.2.2 (i) An extension, without any impact on the Scheduled Commencement of Supply Date (SCSD), may however be considered by SJVN, on the request of WPD/WPG (which is to be made prior to such deadline), on payment of Rs. 1000/- per day per MW of the Contracted Capacity to SJVN. Such extension charges are required to be paid by WPD/WPG to SJVN in advance, for the period of extension sought for. In case of any delay in depositing the extension charge, WPD 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 SJVN is more than 7 days, the termination of the Agreement shall take effect upon the expiry of such 7th day.
 - (ii) In case of the WPD/WPG meeting the requirements of conditions subsequent and financial closure before the last date of such proposed delay period, the excess amount deposited by the WPD/WPG shall be returned by SJVN to WPD/WPG without interest.

(iii) The extension given in terms of this Article will not have any impact on the obligation of the WPD/WPG to achieve Commencement of Supply of Power by the Scheduled Commencement of Supply Date. Any extension charges paid so by the WPD/WPG, shall be returned to the WPD/WPG, without any interest, on achievement of Commencement of Supply of Power within the Scheduled Commencement of Supply Date, on pro-rata basis, based on the Contracted Capacity for supply of power has commenced as on Scheduled Commencement of Supply Date (SCSD). However, in case the WPD/WPG fails to commence the supply of power for the Contracted Capacity by Scheduled Commencement of Supply Date (SCSD), the extension charges deposited by the WPD/WPG shall not be refunded by SJVN.

(iv) Subject to the above the amount recovered by SJVN under sub-clause (ii) above will be transferred to the Payment Security Fund maintained by SJVN.

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

3.2.4 In case of inability of the WPD/WPG to fulfil the conditions specified in Article 3.1 due to any Force Majeure event, the time period for fulfilment of the Conditions Subsequent and Financial Closure as mentioned in Article 3.1, shall be extended for the period of existence of such Force Majeure event.

Further, any delay in adoption of tariff by the Appropriate Commission, beyond the timelines as indicated in Article 2.1.4 shall entail a corresponding extension in the deadline as stipulated in Article 2.1.4.

3.2.5 Provided that due to the provisions of this Article 3.2.4, 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 Commencement of Supply Date.

3.3 Performance Bank Guarantee (PBG)/ Payment on Order Instrument (POI)

3.3.1 The Performance Bank Guarantee (PBG)/ Payment on Order Instrument (POI) having validity from the date of submission of PBG/POI until _____ (insert validity period as per RfS conditions), submitted for a value of Rs. _____ Lakhs/MW (_____/MW) 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 1/2.

3.3.2 The failure on the part of the WPD/WPG to furnish and maintain the PBG / POI shall be a material breach of the term of this Agreement on the part of the WPD / WPG.

3.3.3 If the WPD / WPG fails to commence supply of power from SCSD specified in this Agreement or any further extension thereof granted by SJVN, subject to conditions mentioned in Article 4.5, SJVN shall encash the PBG/POI 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 SJVN under this Agreement. The damages/dues recovered by SJVN by encashing the PBG/ POI, upon the default of the WPD under the PPA, shall be credited to the payment security fund maintained by SJVN.

3.4 Return of Performance Bank Guarantee/ Payment on Order Instrument

- 3.4.1 Subject to Article 3.3, SJVN shall return / release the PBG/POI within 45 days after the successful commencement of Power supply from the Project within SCSD of the contracted capacity after taking into account any penalty due to delays in commencement of power supply beyond SCSD as per provisions stipulated in this Agreement. PBG may be returned on pro-rata basis subsequent to commencement of supply from part-capacity of the Project, based on the request by the WPD.
- 3.4.2 The return / release of the Performance Bank Guarantee/ Payment on Order Instrument shall be without prejudice to other rights of SJVN under this Agreement.

3.5 Achievement of Financial Closure

The WPD agrees and undertakes to duly perform and complete all of the following activities to achieve Financial Closure, at the WPD's own cost and risk, by the date as on 6 months prior to the SCSD/ extended SCSD:

- a) The WPD shall make Project financing arrangements and shall provide necessary certificates to SJVN in this regard;
- b) The WPD shall submit the details of all planned/proposed wind turbine generators and produce the documentary evidence of the same.

ARTICLE 4: CONSTRUCTION & DEVELOPMENT OF THE PROJECT

4.1 WPD/WPG's Obligations

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

- a) The WPD/WPG shall be solely responsible and shall make arrangements for land & associated infrastructure for development of the Project and for Connectivity with the ISTS System (connectivity can be taken by WPD at different Interconnection Points) for confirming the availability of power system required for evacuation of power by the SCSD and all clearances related thereto.
- b) On or before SCSD / extended SCSD (or date of commencement of supply of power in case of early commencement of supply of power), the WPD shall demonstrate possession/right to use of 100% (Hundred Percent) of the land identified for the RE Project in its name for a period not less than the complete term of this Agreement. In this regard, the WPD/WPG shall submit documents/ Lease Agreement to establish possession/ right of use of 100% of the required land in the same of the WPD. Wherever leasing of private land is involved, the lease should allow transfer of land lease rights to the lenders or SJVN, in case of default of the WPD. The WPD shall submit an undertaking in the form of sworn affidavit from the authorized signatory of the WPD listing the details of the land and certifying that total land required for the Project is under clear possession of the WPD.

With respect to demonstration of land possession by the WPD, commissioning of the Project will not be allowed until the demonstration of land possession by the WPD in terms of this Clause and Clause 6.8.4 (v) of the RfS. However, in case of delays in demonstrating land possession by the WPD on account of Government delay (including but not limited to delay in land use pattern change, and/or relaxation under respective State land ceiling Act, and/or land lease permission from State Government/Authorities) or delay caused due to a Force Majeure as per PPA, SCSD shall be suitably extended.

- c) 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. SJVN shall have no obligation to recommend to any department/agency or the Govt. for the grant/permission for the Wind Power project. The WPD shall, on his own, obtain permissions/ sanctions from Government authorities, if any required for establishing the Project. Any steps that may be taken by SJVN in regard to grant of such consents and permits or any other approval to be taken by the WPD shall only be a voluntary facilitating endeavor on the part of SJVN with no intention of being bound by any legal or binding obligation.
- d) 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.
- e) The WPD shall make adequate arrangements to connect the Power Project switchyard

with the Interconnection Facilities at Interconnection / Metering / Delivery Point to connect the Power project switchyard with the Interconnection facilities at the Delivery Point.

- f) Obtaining Connectivity and executing connectivity agreement as per provision of GNA regulation issued by CERC, for evacuation of the Contracted Capacity and maintaining it throughout the term of the Agreement. It is further clarified that the Entities (WPD and Buying Entity) as indicated in the detailed procedure issued subsequently under the Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) Regulations, 2022, and its amendments, will be responsible for their respective obligation as notified in the detailed procedure irrespective of the provisions of the RfS, PPA and PSA.
- g) The commencement of supply of power up to the Contracted Capacity to SJVN not later than the SCSD and continuance of the power supply in line with Clause 4.4 of this Agreement throughout the term of the Agreement.
- h) Owning the Project throughout the Term of Agreement free and clear of encumbrances, except those expressly permitted under Article 15.
- i) Maintaining its shareholding pattern as per provisions of the RfS Document. Any change in shareholding pattern shall be dealt as per provisions of RfS Document. It is also to be noted that M/s..... [enter name of the successful bidder which has been awarded LoA by SJVN] shall ensure that its promoters shall not cede control of the bidding company till 01 (ONE) years from the CSD, except with the prior approval of SJVN;
- j) Payment Security Mechanism (PSM) Charges: As part of the Payment Security Mechanism as brought out in the PPA, the WPD shall undertake to pay PSM Charges @Rs. 0.02/kWh to SJVN, by offering a commensurate discount in the monthly tariff payment being made by SJVN.
- k) Fulfilling all obligations undertaken by the WPD under this Agreement and also as per the terms of the RfS.
- l) The WPD shall be responsible for directly coordinating and dealing with the corresponding Buying Utility(ies), Load Dispatch Centres, Regional Power Committees, and other authorities in all respects in regard to declaration of availability, scheduling and dispatch of Wind Power and due compliance with deviation and settlement mechanism and the applicable Grid code/State/Central Regulations, acknowledging that the WPD and the corresponding Buying Utility(ies) are the Grid connected entities and SJVN as an Intermediary Procurer/ trading licensee is not a Grid connected entity in respect of the Wind Power contracted under this Agreement.
- m) The WPD shall install the type certified wind turbine models listed in Revised List of Models and Manufactures (RLMM) issued by MNRE as updated until the SCSD in the Project.

- n) The WPD shall be solely responsible for and obligated to ensure that 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.
- o) As part of scheduling of power from the Project, the WPD will be required to punch-in its respective schedules and subsequent revisions by themselves, at the interfaces of all the RLDCs concerned for the corridor of power flow, including the RLDC of the Buying Entity(ies), as per the Regulations in force, under intimation to SJVN. The WPD must intimate SJVN in advance (preferably in the first week of the month), the energy transacted in previous month so that it will help to comply statutory obligations of SJVN as a trading licensee. The WPD shall be solely responsible for discrepancy identification and its rectification to avoid any rejection/less payment of invoices.
- p) WPD shall ensure signing of PPA with SJVN within 30 days from the signing of the PSA with Buying Entity(ies).
- q) After signing of PPA, the WPD shall apply for drawl NOC(s) from the respective STU(s) of the State(s) as per the power mapping provided by SJVN.
- r) The WPD shall submit a detailed completion Schedule for the Project prior to the signing of PPA. Broad details to be captured in the Schedule are the land procurement, grid connectivity; order, supply and erection status of various Project components; financial arrangement/ tie up etc.
- s) The WPD shall also submit the progress report of the Project to SJVN in a form acceptable to SJVN as and when requested by SJVN and shall contain percentage completion achieved compared with the planned percentage completion for each activity, and any such other information as required by SJVN. The WPD shall also furnish, along with the progress report, photographs indicating various stages of project activities
- t) The WPD shall submit a detailed completion Schedule for the Project prior to the signing of PPA. Broad details to be captured in the Schedule are the land procurement, grid connectivity; order, supply and erection status of various Project components; financial arrangement/ tie up etc. The WPD shall also submit the progress report to SJVN in a form acceptable to SJVN and shall contain percentage completion achieved compared with the planned percentage completion for each activity, and any such other information as required by SJVN. The WPD shall also furnish, along with the progress report, photographs indicating various stages of project activities. Further, on 5th day of every calendar month, the WPD shall be required to submit the Project progress status, as desired by Buying Entity / SJVN.

4.2 Information regarding Interconnection Facilities

- 4.2.1** The WPD 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 WPD'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 WPD at its own cost.

- 4.2.2** Penalties, fines and charges, etc. imposed by the CTU/STU under any statute or guidelines in relation to delay in commissioning of the Project shall be entirely dealt by the WPD and any such amounts claimed by such agency(ies) shall be payable by the WPD.
- 4.2.3** The responsibility of getting connectivity with the transmission system up to the Interconnection Point/Delivery Point, will lie with the WPD. The transmission of power up to the point of interconnection where the metering is done for energy accounting shall be the responsibility of the WPD at its 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 WPD to be obtained at his own cost. All costs and charges including but not limited to the wheeling charges and losses up to and including at the Interconnection Point / Delivery Point associated with this arrangement will also be borne by the WPD. In case an WPD is required to use Intra STS to bring RE power at ISTS point, it may do so as per rule and regulations prescribed by the respective SERC in this regard. The maintenance of transmission system up to the Interconnection Point(s) shall be responsibility of the WPD, to be undertaken entirely at its cost and expense.
- 4.2.4** In case of Pooling substation, losses in the transmission line shall be apportioned among the WPDs who share such a Pooling arrangement and duly signed by all WPDs, based on their monthly generation.
- 4.2.5** The arrangement of connectivity shall be made by the WPD through a 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 WPD. In case of non-availability of Grid and Transmission System during Term of this Agreement, for reasons not attributable to the WPD, provisions of Article 4.10 shall be applicable.
- 4.2.6** ISTS charges and losses on transmission of power, including waiver for wind power, shall be applicable as per extant regulations. Government of India/CERC at its sole discretion, from time to time, issues order for waiver of ISTS charges and losses on transmission of Wind /RE power till a certain date. In case commencement of power supply from the Project gets delayed beyond the applicable date of ISTS waiver, arising out of any reasons whatsoever, SJVN shall bear no liability with respect to transmission charges and losses levied, if any.

However, in case the SCSD of the project is on or before the above deadline for ISTS waiver and commencement of power supply from the Project gets delayed beyond the applicable date of ISTS waiver and losses due to reasons solely attributable to the WPD, the liability of transmission charges and losses would be to the account of the WPD.

Delay in Project commissioning beyond the deadline as stipulated by the Government of India, and treatment of ISTS charges and losses thereof, shall be dealt in line with the Applicable Regulations / Orders of Central Electricity Regulatory Commission / Govt.

of India. The provisions of PPA and PSA in regard to liability of the Buying Entity to pay the ISTS charges and losses shall stand modified by such exemption/waiver provided as per the above Order/Office Memoranda and regulations issued by CERC, as applicable.

Subject to the above, it is however, clarified that ISTS charges and losses beyond the Delivery Point(s) shall be borne by the Buying Utility upon the execution of the relevant PSA.

4.3 Purchase and sale of Power within the Contracted Capacity

4.3.1 Subject to the terms and conditions of this Agreement, the WPD undertakes to sell wind power to SJVN and SJVN undertakes to purchase such power and pay Tariff for all the energy supplied at the Delivery Point corresponding to the Contracted Capacity.

4.3.2 Power procured from the Project under this Agreement shall be allocated on back-to-back basis to the Buying Entities which have signed /will sign their respective Power Sale Agreements at the discretion of SJVN, in consultation with Buying Entities. Any obligation of SJVN being intermediary Procurer shall be deemed to be the obligation of Buying Entity(ies) with which SJVN has / will execute Power Sale Agreement.

4.4 Right to Contracted Capacity & Energy

4.4.1 The CUF declared by the WPD is _____ (insert the value as per SJVN's LoA). The WPDs will be allowed to revise the CUF of the Project once within first three years after the date of commencement of power from first part capacity of the Project or full Project capacity, whichever is earlier. The Bidders will declare the annual CUF for the contracted capacity at the time of submission of response to RfS, and the WPDs will be allowed to revise the same once within first three year after Commencement of Supply of Power Date (CSD) subject to condition that the revised annual CUF shall not be less than 90 % of the CUF initially quoted by the Bidder and the revised annual CUF shall in no case be less than 22%. Thereafter, the CUF for the contracted capacity shall remain unchanged for the entire term of the PPA. Subsequent to commencement of power supply from the Project, SJVN, in any Contract Year, except for the Contract Year ending on 31st March immediately after the date of commencement of power from the Project, shall not be obliged to purchase any additional energy from the WPD beyond _____ Million kWh (MU) [Insert value of energy corresponding to CUF of 120% of the declared CUF for the Project or the modified CUF]. If for any Contract Year, except for the Contract Year ending on 31st March immediately after the date of commencement of power from the Project, it is found that the WPD has not been able to supply minimum energy amounting to _____ Million kWh (MU) [Insert values corresponding to a CUF of 90% of the declared CUF for the project or the modified CUF] for the rest of the term of Agreement, save and except in case of Force Majeure, the WPD shall be liable to pay penalty to SJVN to enable SJVN to remit such compensation to the Buying Entity (ies).

For the first year of operation of the Project, the above limits shall be considered for the complete calendar year after the date of commencement of power from the Project. Subsequently, the annual CUF will be calculated every year from 1st April of the year to 31st March of the next year. Similarly, for the last year of operation of the Project, these limits shall be considered for the complete calendar year before the expiry of the PPA. The lower limit will, however, be relaxable by Buyer to the extent of Generation Compensation due to grid non-availability to the Project for evacuation which is beyond the control of the WPD as determined under provisions of Article 4.10.1. The amount of such penalty will be calculated @ **50% (fifty per cent)** of the Applicable Tariff for the shortfall in energy terms, which in turn, shall be remitted to the Buying Entity. The penalty as per above shall be applied on the amount of shortfall in generation from the Project during any Contract Year. This penalty shall not be applicable in events of Force Majeure identified under this Agreement, affecting supply of Wind Power by WPD.

4.4.2 Any excess generation over and above as per Article 4.4.1, may be purchased by SJVN at the PPA tariff as per Article 9, provided the Buying Entity consents to purchase such power at the Applicable Tariff as per PSA. While the WPD would be free to install the WPG turbines as per its design of required output, including its requirement of auxiliary consumption and to repower the Project from time to time during the term of the PPA, it will not be allowed to sell any excess energy to any other entity other than SJVN (unless refused by SJVN). Further, any addition to the installed capacity subsequent to commencement of supply of power for the full capacity/part capacity of the Project (as applicable), shall not be eligible for any future claims made by the WPD, seeking compensation on account of any changes in the applicable provisions covered under Change in Law as defined in this Agreement.

The WPD shall be required to intimate SJVN about the proposed excess quantum of energy likely to be generated from the Project within any Contract Year, at least 60 days prior to the proposed date of commencement of excess generation. SJVN shall be required to intimate its approval/refusal to the WPD, for buying such excess generation not later than 15 days of receiving the above offer from the WPD. In the event the offer of the WPD is not accepted by SJVN within the said period of 15 deviation days, such right shall cease to exist and the WPD shall, at its sole discretion, may sell such excess power to any third party.

The WPD may also sell the power which was offered on day ahead basis to the Procurer (within Contracted Capacity) but not scheduled by the Procurer, to any third party or in power exchange without requiring NOC from the Buying Entity(ies). However, it may be noted that at any instance of energy supply from the Project, priority shall be accorded to meet the energy requirements of Buying Entity(ies) as per PPA, before selling any quantum of energy in the open market. The WPD may repower the Project at any stage, if required in order to meet the generation or availability requirement of this Project.

However, in case at any point of time, the power generated from the project reached is higher than the Contracted Capacity and causes disturbance in the system at the point where

power is injected, the WPD will have to forego the excess generation and reduce the output to the rated/contracted capacity to ensure compliance with grid requirement 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 instance of third-party sale of power from the Project by the WPD, while the demand / contracted Capacity specified in the PPA remains unfulfilled, shall constitute a breach of WPD's obligations under the PPA and make the WPD liable for penalty @1.5 times of extant market rate/kWh (reference rate being the applicable rate on the Indian Energy Exchange (IEX)) for the quantum of such sale.

Any energy produced and flowing into the grid before Scheduled Commencement of Supply Date (SCSD) shall not be to the account of or at the cost of SJVN/ Buying Entity(ies). SJVN may however agree to buy such power at a tariff as agreed to between SJVN and the Buying Entity (including SJVN's trading margin) as per the PSA, provided the Buying Utility consents for purchase of such Power.

4.4.3 Consequences of Shortfall in supplying / offering (as applicable) the Contracted Capacity -

- i) If for any Contract Year, it is found that the WPDWPG has not been able to supply minimum energy corresponding to the value of annual CUF within the permissible lower limit of CUF declared by the WPD, on account of reasons primarily attributable to the WPD, such shortfall in performance shall make the WPD liable to pay the liquidated damages as per criteria mentioned below at Clause 4.4.3 (ii) below.
- ii) In case of shortfall in the supply of energy corresponding to minimum CUF as specified in Clauses 4.4.3 (i), for reasons attributable to WPD, the WPD shall be liable to pay to the Procurer, penalty for such shortfall in supply of energy. Penalty for not meeting the stipulated supply of energy shall be equal to one and a half times the tariff for the number of units not supplied, which in turn, shall be remitted to the Buying Entity. The penalty as per above shall be applied on the amount of shortfall in generation from the Project during any Contract Year. It is clarified that the shortfall in energy supply will be calculated based on the total annual energy commitments, and not on the WPG energy units as indicated above.

An illustration to this effect is attached at Annexure-D of RfS.

- iii) The performance criteria as per Clause 4.4.3 (i) above shall not be applicable for the Contract Year ending on 31st March immediately after SCSD of the contracted capacity.

4.4.4 The detailed list of documents required for verification of energy supply and performance of the Projects will be intimated to the Developers subsequent to commissioning. For each Contract Year, the above data will be required to be submitted by the respective Developers to SJVN within 30 days after expiry of the previous Contract Year, for verification of the performance parameters for calculating applicable compensation on account of shortfall.

4.4.5 The WPD/WPG agrees that the methodology specified hereinabove for calculation of compensation in the form of liquidated damages payable by the WPD/WPG for shortfall in

generation/Wind power is a genuine and accurate pre-estimation of the actual loss that will be suffered by SJVN / Buying Entities. WPD shall further acknowledge that a breach of any of the obligations contained herein result in injuries and that the amount of the damages or the method of calculating the damages specified in this document is a genuine and reasonable pre-estimate of the damages that may be suffered by the SJVN / Buying Entities in each case specified under this Agreement.

4.4.6 The parties agree that damages shall not be applicable in events of Force Majeure identified under the PPA, affecting supply of power by the WPD. WPD shall not be liable to pay any damages whatsoever including consequential damages for any shortfall in generation in excess of what becomes payable under Article 4.4.3. It is also clarified that the shortfall in energy supply will be calculated based on the total annual energy commitments.

4.5 Extension of Time

4.5.1 In the event that the WPD is prevented from performing its obligations under Article 4.1 by the SCSD due to:

- a) any SJVN Event of Default; or
- b) Force Majeure Events affecting SJVN/ Buying Entity(ies), or
- c) Force Majeure Events affecting the WPD,

the SCSD and the Expiry Date shall be deferred, for a reasonable period but not less than 'day for day' basis, to permit the WPD or SJVN/ Buying Entity(ies) through the use of due diligence, to overcome the effects of the Force Majeure Events affecting the WPD or SJVN/Buying Entity(ies), or till such time such Event of Default is rectified by SJVN.

4.5.2 Subsequent to grant of connectivity, in case there is a delay in operationalization of GNA by the CTU and/or there is a delay in readiness of the ISTS substation at the Delivery Point, including readiness of the power evacuation and transmission infrastructure of the ISTS network until SCSD of the Project, and it is established that:

- (i) The WPD has complied with the complete application formalities as per RfS,
- (ii) The WPD has adhered to the applicable Procedure in this regard as notified by the CERC/CTU, and
- (iii) The delay in operationalization of GNA and/or delay in readiness of the ISTS substation at the Delivery Point, including readiness of the power evacuation and transmission infrastructure of the ISTS network, is solely attributable to the CTU/transmission licensee and is beyond the control of the WPD;

The above shall be treated as delays beyond the control of the WPD and SCSD for such Projects shall be revised as the date as on 60 days subsequent to the readiness of the Delivery Point and power evacuation infrastructure and/or grant/operationalization of GNA. Decision on requisite extension on account of the above factor shall be taken by SJVN.

In case of delay in commissioning of Project due to reasons beyond the reasonable control of the RPD, SJVN may extend the SCSD after examining the issue on a case-to-case basis.

In case of change in Project location(s) by the WPD, extension requests under this Article

shall be dealt by SJVN on case-to-case basis. For avoidance of ambiguity, it is clarified that for decisions made under this Article, the phrase “change in Project location” or its similar connotations, shall refer solely to change in Delivery Point(s) of the Project.

Further, in case of delay in commencement of power supply on account of reasons solely attributable to the WPD, resulting in any liquidated damages/penalty levied on the Buying Entity including Transmission charges under the GNA Regulations and/or applicable regulation as notified by CERC, such damages/penalty shall be passed on to the WPD.

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 180 days from the date of the Force Majeure Notice, termination of this Agreement shall be caused solely at the discretion of SJVN, as per the provisions of Article 11.10 of this Agreement.

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 SCSD or the Expiry Date should be deferred, either 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 SCSD and newly determined Expiry Date shall be deemed to be the SCSD and the Expiry Date for the purposes of this Agreement.

4.5.6 Delay in commencement of power supply from the project beyond the SCSD 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 WPD and shall be subject to the consequences specified in the Article 4.6.

4.5.7 Further, any delay in adoption of tariff by the Appropriate Commission, beyond 60 days of submission of petition for adoption of tariff before the Appropriate Commission or 120 days from the date of signing of PSA, whichever is more, shall entail a corresponding extension in the SCSD, in line with provisions of Article 2.1.4 of this Agreement.

4.6 Penalty/Liquidated Damages for delay in Commencement of Power Supply

4.6.1 The WPD shall commence supply of power of contracted Capacity within the SCSD as defined in this Agreement. If the WPD is unable to commence power supply from the Project by the SCSD for the reasons other than those specified in Article 4.5.1 and 4.5.2, the WPD shall pay to SJVN, penalty for the delay in such commencement of power supply and making the Contracted Capacity available for dispatch by the SCSD as per the following:

- (a) Delay beyond the SCSD upto (& including) the date as on 6 months after the SCSD or the extended SCSD, if applicable: The total PBG/POI amount shall be encashed on per-day basis and proportionate to the Project capacity that has not commenced supply of power.

For example, in case of a Project of 500 MW capacity, if commissioning of 100 MW capacity is delayed by 18 days beyond the SCSD, then the penalty shall be: PBG (or POI) amount X (100/500) X (18/180). For the purpose of calculation of penalty, a

'month' shall comprise of 30 days.

(b) For avoidance of doubt it is clarified that provisions of Article 4.6.1 will be applicable even in cases where no capacity (**i.e. 0 MW**) has commenced power supply.

4.6.2 The maximum time period allowed for commissioning of the full Project Capacity with encashment of PBG/POI shall be limited to 6 months after the SCSD/extended SCSD of the Project.

In case, the commencement of power supply from the Project is delayed beyond 6 months after the SCSD/extended SCSD, the Contracted Capacity shall stand reduced / amended to the capacity for which power supply has commenced until the date as on 6 months after the SCSD and the PPA for the balance capacity will stand terminated and shall be reduced from the Contracted Capacity.

4.6.3 The WPD acknowledges and accepts that the methodology specified herein above for calculation of liquidated damages payable by the WPD is a genuine and accurate pre-estimation of the actual loss that will be suffered by SJVN. WPD further acknowledges 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 Agreement is a genuine and reasonable pre-estimate of the damages that may be suffered by the SJVN in each case specified under this Agreement.

4.6.4 In case of part-commencement of power supply subsequent to the SCSD, encashment of PBG/POI shall take place upon commencement of power supply from each part capacity, in case of no request for time extension of such part capacity pending with SJVN.

4.7 Acceptance/Performance Test

4.7.1 Prior to synchronization of the Power Project, the WPD 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 Wind Power projects.

4.7.2 The date of onset of commercial offtake of power by SJVN/Buying Entity shall be determined as the date of commencement of power supply under the RfS/PPA. Prior to declaration of commencement power supply, the WPD shall submit COD certificate for the corresponding Installed Capacity to SJVN as part of the requisite documents.

4.8 Third Party Verification

4.8.1 The WPD shall be further required to provide entry to the site of the Power Project (from which power under this Agreement is being made available) free of all encumbrances at all times during the Term of the Agreement to SJVN and a third Party nominated by any Indian Governmental Instrumentality for inspection and verification of the works being carried out by the WPD at the site of the Power Project. The WPD shall provide full support to SJVN and/or the third party in this regard.

4.8.2 The third party may verify the construction works/operation of the Project being carried out

by the WPD 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 WPD or require the works to be stopped or to comply with the instructions of such third party.

4.9 Breach of Obligations

4.9.1 The Parties herein agree that during the subsistence of this Agreement, subject to SJVN being in compliance of its obligations & undertakings under this Agreement, the WPD would have no right to negotiate or enter into any dialogue with any third party for the sale of Contracted Capacity of power which is the subject matter of this Agreement. It is the specific understanding between the Parties that such bar will apply throughout the entire term of this Agreement.

4.10 Generation compensation for Off-take constraints

If the Procurer does not off-take power scheduled by WPD, the penalty shall be in accordance with the Electricity (Promotion of Generation of Electricity from Must-Run Power Plant) Rules, 2021, as amended from time to time.

4.10.1 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 WPD/WPG. In such cases, the generation compensation shall be addressed/ payable by the Buying Utility(ies) in the following manner:

Duration of Grid unavailability	Provision for Generation Compensation
Grid unavailability in a Contract Year as beyond 50 hours in a Contract Year as defined in the PPA	<p><i>Generation Compensation= (Tariff X RE Power (MW) offered but not scheduled by the Buying Entity) X 1000 X no. of hours of grid unavailability.</i></p> <p>However, in the case of third-party sale or sale in the power exchange, as price taker, the 95% of the amount realized, after deducting expenses, shall be adjusted against the Generation compensation payable, on monthly basis.</p>

Compensation (if any) calculated as per above provision, will be paid to the WPD on an annual basis.

4.10.2 Payment in case of reduced off take:

The WPD/WPG and the Buying Entity shall follow the forecasting and scheduling process as per the regulations in this regard by the Appropriate Commission. In case the plant is available to supply power but the off take of power is not done by the Buying Entity(ies), including non-dispatch of power due to non-compliance with “Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 notified by the Ministry of Power vide Gazette notification dated 3rd June 2022” and any clarifications or amendment thereto, considering the

principle of ‘must run’ status for RE Power, the WPD shall be eligible for payment from the Buying Entity, corresponding to the reduced off take, in terms of following manner:

Duration of reduced off take	Provision for Generation Compensation
Reduced off-take beyond 50 hours in a Contract Year as defined in the PPA	<p>Generation Compensation= <i>(Applicable Tariff X RE Power (MW) offered but not scheduled by the Buying Entity) X 1000 X no. of hours of Reduced Off take.</i></p> <p>However, in the case of third-party sale or sale in the power exchange, as price taker, the 95% of the amount realized, after deducting expenses, shall be adjusted against the Generation compensation payable, on monthly basis.</p>

Tariff shall be the Tariff as per Article 9.

4.10.3 The WPD shall be eligible for payment from the Buying Entity, corresponding to the reduced offtake of power as per above mentioned methodology. The Payment is to be done as part of the energy bill for the successive month after receipt of Energy Accounts (REA)/SEA/JMR. No Trading Margin shall be applicable on this Payment.

It is hereby clarified that for the purpose of Article 4.10, “generation” shall mean scheduled energy / Actual Energy as applicable based on Energy Accounts. The WPD shall not be eligible for any compensation in case the Backdown is on account of events like consideration of grid security or safety of any equipment or personnel or other such conditions or Force Majeure.

4.10.4 For claiming compensation, the WPD must sell their power in the power exchange as a price taker. Thus, the compensation would be limited to the difference of the actual generation up to declared capacity subject to a maximum of up to the Contracted Capacity and the quantum of power scheduled by the Buying Entity.

ARTICLE 5: SYNCHRONIZATION, COMMERCIAL OPERATION AND COMMENCEMENT OF SUPPLY OF POWER

- 5.1 The WPD shall give the concerned RLDC/SLDC and SJVN and also to the Buying Entity 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 Wind Power Project to the Grid System.
- 5.2 Subject to Article 5.1, the Project may be synchronized by the WPD to the Grid System when it meets all the connection conditions prescribed in applicable Grid Code then in effect including providing reactive power compensator etc. in line with CEA/applicable rules, regulations in this regard and otherwise meets all other Indian legal requirements for synchronization to the Grid System.
- 5.3 The synchronization equipment and all necessary arrangements / equipment including RTU for scheduling of power generated from the Wind Project and transmission of data to the concerned authority as per applicable regulations shall be installed by the WPD at its generation facility at its own cost. The WPD 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 and RLDC, in line with the provisions of the Grid Code.
- 5.4 The WPD shall immediately after each synchronization/tripping of generator, inform the sub-station of the Grid System to which the generation facility including Power Project(s) is electrically connected and also to all other concerned authorities in accordance with applicable Grid Code under intimation to SJVN and End Procurer(s). In-addition the WPD may inject power into grid from time to time to carry out operational/ functional test prior to declaration of part/full commissioning subject to applicable laws and regulations at the project site. SJVN shall not be liable to pay any price to WPD for such infirm Power injected. For avoidance of doubt, it is clarified that Synchronization / Connectivity of the Project with the grid shall not to be considered as Commencement of Supply of power of the Project.
- 5.5 The WPD shall commission the Project in line with provisions of the Grid Code. In line with this regulation, the WPD proposing the Project, or its part, for trial run or repeat of trial run shall give a notice of not less than seven (7) days to the concerned RLDC, Buying Entity(ies), and SJVN. However, in case the repeat trial run is to take place within 48 hours of the failed trial run, fresh notice shall not be required. The WPD shall submit requisite documents as mentioned below, at least 30 days prior to trial run of the Project, including but not limited to the following:
- i. Intimation regarding the timeline for commencement of supply of power from the Project.
 - ii. Copy of CON-4 report submitted to CTU.
 - iii. CEI/CEIG (as applicable) report containing approval for all the components, including WTGs, inverters, transformers, Transmission system and protection

- system, along with all annexures/attachments. It would be the responsibility of the WPD to obtain the certificate.
- iv. Approval of Metering arrangement/scheme from CTU/GRID INDIA/ any other concerned authority as applicable
 - v. Plant Layout, Plant (AC & DC) SLD
 - vi. Affidavit certifying that the WPD has obtained all the necessary approvals for commencement of power supply from the Project, and indemnifying SJVN against any discrepancies in the above details.
 - vii. Affidavit from the WPD certifying possession of land identified for the Project, bearing the details of such land parcels where Project is located, and indemnifying SJVN against any discrepancies in the above details.
 - viii. Documents to establish the compliance of technical requirement as per PPA/RfS.
 - ix. Invoices against purchase of the WTGs, Inverters/PCUs, WMS, SCADA and DC cables along with the summary sheet containing the list of all the invoices, inverters including details and number of items. Lorry Receipts for delivery of WTGs and inverters at site along with certified summary sheet by the authorized signatory.
 - x. In addition to the above, the WPD shall provide coordinates of WTGs, details of storage systems (if any), RLMM/ALMM certificates as applicable, insurance documents of Project, online monitoring facility as stated vide Clause 7, Annexure-B, of the RfS.

It is clarified that SJVN shall bear no responsibility in declaration of commissioning/COD of the Project. However, on the basis of above documents, the WPD shall be required to obtain No-objection certificate (NOC) from SJVN prior to declaration of commissioning/COD of the Project.

SJVN's scope will be limited to verifying the installation of rated capacity(ies) of the Project as per the Commissioning/COD certificate submitted by the WPD. This verification will be at SJVN's discretion and shall not constitute any certification/confirmation of commissioning/COD of the Project by SJVN. Prior to declaration of commencement of power supply, the WPD shall submit Commissioning/COD certificate for the corresponding Installed Capacity to SJVN as part of the requisite documents.

The date of onset of commercial offtake of power by SJVN/Buying Entity shall be determined as the date of commencement of power supply under the RfS/PPA.

- 5.6 **Early commencement of Power supply:** The WPD shall be permitted for commencement of power supply from full as well as part Contracted Capacity even prior to the SCSD subject to availability of transmission connectivity and General Network Access (GNA). Early commencement of power supply will be allowed solely at the risk and cost of the WPD, and first right of refusal for offtake of such power will vest with the Buying Entity. Such intimation for early commissioning shall be provided to SJVN at least 60 days before the proposed early commissioning date. SJVN/ Buying Entity(ies) shall provide refusal within 15 (fifteen) Days from the receipt of the request, beyond which it would be considered as deemed refusal. The 15- days period will be applicable separately for SJVN and the Buying Entity. In case the Buying Entity refuses to buy

such power, the right of refusal shall vest with SJVN. In case Buying Entity/SJVN agrees to purchase power from such early part/full commencement of power supply prior to SCSD, such power will be purchased at the PPA tariff plus SJVN's trading margin (to be paid by the Buying Entity(ies)). In case SJVN/ Buying Entity(ies) does not agree to purchase such energy, early part/full commissioning of the Project shall still be allowed and the WPD will be free to sell such energy to a third party; subject to grant of connectivity and GNA, until SCSD or the date of commencement of procurement of power from the Project as notified by SJVN whichever is earlier. Even in case of early part/full commencement of power supply, the PPA will remain in force for a period of 25 (twenty-five) years from the SCSD/extended SCSD.

5.7 **Part commencement of Power supply:** There can be part commencement of power supply from the Contracted Capacity. Part commencement of supply of power from the Project shall be accepted by SJVN/Buying Entity(ies) subject to the condition that the minimum capacity for acceptance of first part shall be 50 MW, without prejudice to the imposition of penalty, in terms of the PPA on the part which has not yet commenced supply of power. However, in case of inter- state project, minimum capacity for acceptance of commencement of supply of power shall be at least 50 MW. The projects can further commence supply of power in parts of at least 10 MW capacity, with last part as the balance capacity.

5.8 The SJVN & WPD agree that for the purpose of commencement of the supply of power by WPD to SJVN, penalty for delay etc., the SCSD/extended SCSD as defined in this Agreement shall be the relevant date.

5.9 The WPDs will be free to reconfigure and repower various components of the Project configuration from time to time during the PPA duration at its own risk and cost, pursuant to Articles 3.1 and 4.4 of this Agreement. However, SJVN will be obliged to buy power only upto the Contracted Capacity as per this Agreement.

5.10 Installation of additional capacity of WPG turbines

The WPD is free to install additional WPG turbines in the Project, subject to the following conditions:

- a. Details of the overall Project configuration, including details of additional capacity that WPD is proposing to install in the Project, must be provided within 30 days of issuance of LoA.
- b. Excess generation on account of the above additional installed capacity shall be treated in line with provisions of Article 4.4.2 of the PPA.
- c. The WPD will undertake that such installed capacity over & above the contracted capacity would not cause any disturbance in the grid system, at no instance, power more than the Contracted Capacity under the PPA would be injected into the grid, and they will always comply with the terms of the PPA in this regard. This undertaking will be submitted to SJVN/CTU, to be intimated by SJVN at the time of commencement of power supply from the Project.

- d. With connectivity to the ISTS being a technical requirement, the WPD should inform the entire capacity that is proposed to be installed along with all the data/models (individual as well as aggregated) to CTU/GRID-INDIA.
- e. All the WTGs shall comply with all the technical requirements specified in CEA “Technical Standards for Connectivity to the Grid, 2007” and subsequent amendments.
- f. At all-times, the WPD shall have to follow the applicable Indian Electricity Grid Code/Rules/Regulation/Procedures issued by MoP/CEA/CERC/CTU/ POSCOS for all WTGs, including additional WTGs, installed under the Project.
- g. As specified in CERC approved “Procedure for Implementation of the Framework on Forecasting, Scheduling and Imbalance Handling for Renewable Energy (RE) Generating Stations including Power Parks based on WPG at Inter-State Level”, each single WTG level data shall be provided by WPD to CTU/GRID-INDIA, for all the turbines installed in the Project.
- h. Developer would be permitted Connectivity as per the applications to CTU. In case of installation of any excess capacity beyond the quantum for which Connectivity has been sought, the WPD would be required to capture all details of the same in the respective formats as per the procedure outlined under the General Network Access Regulations. It shall be ensured that such excess capacity added, fully complies with CEA (Technical Standards for connectivity to the Grid) Regulations 2007 (as amended) and all mandated documents/test reports shall be furnished in support of above.
- i. This additional installation of WTGs is a prerogative of the WPD to utilize their AC infrastructure optimally. Financial implications of applicability of relevant provisions of the PPA, i.e. Penalty, relief on account of Change in Law, etc. will be governed by the Contracted Capacity only.

ARTICLE 6: DISPATCH AND SCHEDULING

6.1 Dispatch and Scheduling

6.1.1 The WPD shall be entirely responsible to declare the DC and 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 RLDC/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 WPD.

6.1.2 The WPD shall be responsible for directly coordinating and dealing with the Buying Entity, RLDCs, SLDCs, Regional Power Committees, and other authorities in all respects in regard to declaration of availability, scheduling and dispatch of power and due compliance with deviation and settlement mechanism and the applicable Grid code Regulations, acknowledging that the WPD and Buying Entity are the Grid connected entities and SJVN as an Intermediary Procurer/ trading licensee is not a Grid connected entity in respect of the power contracted under this Agreement.

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

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

6.1.5 Further, in case of any difference in scheduled energy at the interfaces of all the RLDCs concerned for the corridor of the power flow, including the RLDC of the Buying Entity, SJVN will make payments corresponding to the lowest of the individual energy values to the WPD, until rectification of the above error.

6.2 Dispatch of Contracted Capacity

6.2.1 The WPD shall install, operate and maintain the Wind Project such that the Wind Power as per the parameters stipulated in this Agreement and RfS (Annual CUF) is supplied during each Contract Year for the entire Term of this Agreement.

6.2.2 The Buying Utility shall, in accordance with Applicable Laws and Regulations thereunder, issue instructions to the WPD for schedule of electricity and dispatch thereof to the Grid during such period and in such volume as it may specify in its instructions (the “**Dispatch**”). Provided that the Utility shall not as for Dispatch in excess of the declared Availability by the WPD/WPG, unless mutually agreed between the WPD/WPG and the Buying Utility(ies).

6.2.3 The WPD shall plan the production and Dispatch of electricity and convey its availability for scheduling thereof by the SLDC or RLDC, as the case may be, and shall supply electricity in accordance with the provisions of the Grid Code and the Electricity Act, 2003 etc.

6.2.4 WPD/WPG agrees and undertakes that the fundamental and mandatory obligation of the

WPD/WPG under this Agreement is to make available the Contracted Capacity in the manner specified under this Agreement to provide Wind RE Power (Annual basis) to the buying utility.

6.3 Supply Obligation of the WPD/WPG

In case the WPD fails to offer the contracted power as per this Agreement to SJVN/Buying Entity and sells the contracted power without its consent to any other party, the WPD, on a complaint to this effect by SJVN/Buying Entity to the load dispatch centre concerned, shall be debarred from participating in Power Exchanges and on the Discovery of Efficient Electricity Pricing portal and scheduling of any new short-term contracts from the Project for a period of three months from the date on which the default has been taken cognizance by the concerned load dispatch centre. The period of debarment shall increase to six months for second default and shall be one year for each successive default. Such debarment of the WPD shall be without prejudice to the rights of SJVN/Buying Entity for seeking compensation for the default by the WPD under this Agreement.

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 WPD and SJVN 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 WPD shall bear all costs pertaining to installation, testing, calibration, maintenance, renewal and repair of meters at WPD's side of Delivery Point.
- 7.1.3 In addition to ensuring compliance of the applicable codes, the WPD shall install Main & Check meters at the Delivery Point, along with Stand-by meter(s) as per the applicable Central/State regulations. Further, it shall be the obligation and responsibility of the WPD, to ensure metering arrangement at any other source component in compliance with the Applicable Regulations, Guidelines & Laws and as per the requirement of this Agreement.
- 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 set up 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 WPG Power Projects will install necessary equipment for regular monitoring of ambient air temperature, WPG speed and other weather parameters and simultaneously for monitoring of the electric power generated from the Project.
- 7.2.2 Online arrangement would have to be made by the WPD for submission of above data regularly for the entire period of this Power Purchase Agreement to the RLDC, SLDC, SJVN and the concerned Ministry or concerned agency as per applicable regulation / directions. Further, WPD shall also be responsible for ensuring online arrangement for submission of all required data for the Contracted Capacity as per provisions of this Agreement during entire Term of this Agreement as per applicable guidelines, regulations, laws to RLDC, SLDC, SJVN and the concerned Ministry or concerned agency
- 7.2.3 Reports on above parameters on monthly basis (or as required by regulation / guidelines) shall be submitted by the WPD to Ministry of New and Renewable Energy/SJVN/or authorized agency of SJVN/ MNRE for entire Term of this Agreement.

ARTICLE 8: INSURANCES

8.1 Insurance

8.1.1 The WPD 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/Mega/any suitable insurance policy as per current market practices as deemed fit by WPD 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 (if applicable) 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 Project no longer economically and technically viable and the insurers under the Insurances make payment on a “total loss” or equivalent basis, SJVN shall have claim on such proceeds of such Insurance limited to outstanding dues of SJVN against the Buying Utility(ies) as per PSA entered into and any other dues of the Buying Utility(ies) against WPD.

8.3 Effect on liability of SJVN

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 WPD can claim compensation, under any Insurance shall not be charged to or payable by SJVN or Buying Entity(ies). It is for the WPD 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 Subsequent to commencement of power supply by the WPD on the terms contained in this Agreement, the WPD shall be entitled to receive the Tariff of Rs _____ / kWh [Insert the Tariff discovered through the bidding process conducted by SJVN], fixed for the entire term of this Agreement.

9.2 In case of early part/full commencement of power supply from the project, till SCSD as per provision stipulated under Article 5.6, the WPD will be free to sell the electricity generated, to any entity other than the SJVN/ Buying Entity(ies), only after giving the first right of refusal to the SJVN/Buying Entity(ies) by giving 15 days advance notice to both SJVN and Buying Entity. SJVN/Buying Entity shall provide refusal within 15 (fifteen) days from the receipt of the request for early part/full commencement of power supply from the Project, beyond which it would be considered as deemed refusal.

Any energy produced and flowing into the grid before SCSD shall not be at the cost of SJVN. In case SJVN/Buying Entity agree to purchase such power from a date prior to the SCSD, such power shall be purchased at the Applicable Tariff plus SJVN's Trading Margin (to be paid by the Buying Entity(ies)).

9.3 Any excess generation over and above energy specified in Article 4.4.1, will be purchased by SJVN at the Applicable Tariff, and provided the Buying Entity consents for purchase of such excess generation.

However, the WPD will not be allowed to sell energy generated prior to SCSD or excess energy during any Contract Year to any other entity other than SJVN (unless refused by SJVN).

9.4 The WPD/WPG may also sell the power which was offered on day ahead basis to the Buying Entity(ies) (within Contract Capacity and within Maximum CUF) but not scheduled by the Buying Entity(ies) to any third party or in power exchange without requiring NOC from the Buying Entity(ies) as per provision of Article 4.4.2.

9.5 During any Contract Year the WPD shall also be obliged to achieve the supply of energy corresponding to the CUF quoted by WPD. Non-compliance of any of aforementioned provision shall attract damages as per Article 4.4.3 of this Agreement. The Buying Utility shall be entitled to use the RE power supplied under this Agreement for fulfilment of its RPO of each RE component respectively.

ARTICLE 10: BILLING AND PAYMENT

10.1 General

- 10.1.1 Pursuant to Article 4.1.1 (j), SJVN may set up a payment security fund for WPG Power Projects in order to ensure timely payment.
- 10.1.2 From the commencement of supply of power, SJVN shall pay to the WPD 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 SJVN shall be in Indian Rupees.
- 10.1.3 For the purpose of payment of the bills raised by the WPD(s), in case Energy Account is published on cumulative basis, payment to the WPD(s) for the energy delivered shall be determined as per the segregation of the energy account provided by all the WPDs as per their schedule and shall be apportioned based on REA/SEA/JMR taken for the WPD's Project at the Pooling substation/metering Point (to be provided in the form of annexure that will be attested by all the WPDs).
- 10.1.4 The WPD shall be required to make arrangements and payments for import of energy and other charges (if any) required for supply/offer of the contracted capacity under this agreement as per applicable regulations.
- 10.1.5 The parties acknowledge and accept that the Electricity (Late Payment Surcharge and related matters) Rules, 2022 [hereinafter referred to as '**Rules**'] as notified vide G.S.R 416(E) on 03.06.2022 by the Central Government in exercise of the power conferred by Sub-section (1) of Section 176 of the Electricity Act, 2003 shall apply and govern the terms and conditions of this Agreement in regard to matters contained in the said Rules including but not limited to the Late Payment Surcharge, adjustment towards the Late Payment Surcharge, Payment Security mechanism-its operations and consequences, actions of Defaulting Entities, supply obligation of WPD, power not requisitioned by the Buying Entity, the order of payment and adjustment towards late payment surcharge and indemnification. In case of any inconsistency in the Guidelines and/or the provisions of this Agreement, with the provisions of the above Electricity (Late Payment Surcharge and Related Matters) Rules, 2022, the Electricity (Late Payment Surcharge and Related Matters) Rules, 2022 will supersede and be applicable and govern the terms and conditions of this Agreement. The above shall apply both in regard to the present agreement as well as on mutatis mutandi and back-to-back basis to the PSA. The Rules referred to hereinabove being statutory shall, to the extent applicable, supersede any provisions in this PPA and the PSA which are inconsistent or contrary to the provisions of the Rules.

10.2 Delivery and Content of Monthly Bills/Supplementary Bills

- 10.2.1 The WPD shall issue to SJVN hard copy of a signed Monthly Bill/Supplementary Bill for the immediately preceding Month/relevant period based on the issuance of Energy Accounts/JMR along with all relevant documents (payments made by WPD 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 RPC/SLDCs/ JMR 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 regulations of respective State the Project is located in.

10.2.2 WPD may raise Monthly bill based on the provisional REA published at RPC of the Buying Entity, the final adjustments in bill, if any, may be done on the basis of the final REA along with Debit/Credit Note. The Monthly Bill amount shall be the product of the energy as per Energy Accounts and the Applicable Tariff.

10.2.3 The WPD shall issue the monthly Bill by deducting the discount of Rs.0.02/kWh as per Article 10.1.1, and all charges as per this Agreement for the energy supplied for the relevant Month based on Energy Accounts issued by RPC or any other competent authority which shall be binding on both the Parties. Energy drawn from the grid will be regulated as per the applicable Central/State regulations and other relevant document as desired.

10.2.4 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, upto the Delivery Point(s), shall be borne by the WPD.

10.3 Payment of Monthly Bills

10.3.1 SJVN shall pay the amount payable under the Monthly Bill/Supplementary Bill by the Due Date to such account of the WPD, as shall have been previously notified by the WPD as below.

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

- i) deductions required by the Law; and
- ii) amount claimed by SJVN, if any, from the WPD, will be adjusted from the monthly energy payment. In case of any excess payment adjustment, the interest applicable will be same as rate of Late Payment surcharge (1.25%) will be applicable on day-to-day basis.

The WPD shall open a bank account (the "WPD's Designated Account") for all Tariff Payments (including Supplementary Bills) to be made by SJVN to the WPD, and notify SJVN of the details of such account at least ninety (90) Days before the dispatch of the first Monthly Bill. SJVN shall also designate a bank account at New Delhi ("SJVN Designated Account") for payments to be made by the WPD to SJVN, if any, and notify the WPD of the details of such account ninety (90) Days before the SCSD. SJVN and the WPD shall instruct their respective bankers to make all payments under this Agreement to the WPD's Designated Account or SJVN'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 SJVN beyond the Due Date, a Late Payment Surcharge shall be payable by SJVN to the WPD on the outstanding payment, at the base rate of Late Payment Surcharge applicable for the period for the first month of default. "Base rate of Late Payment Surcharge" means the marginal cost of funds-based lending rate for one year of the State Bank of India, as applicable on the 1st April of the financial year in which the period lies, plus five percent (500 bps) and in the absence of marginal cost of funds-based lending rate, any other arrangement that substitutes it, which the Central Government may, by notification, in the Official Gazette, specify.

The Late Payment Surcharge shall be claimed by the WPD through the Supplementary Bill. Late Payment Surcharge shall be payable on the outstanding payment at the base rate of Late Payment Surcharge applicable for the period for the first month of default. The rate of Late Payment Surcharge for the successive months of default shall increase by 0.5 percent (50 bps) for every month of delay provided that the Late Payment Surcharge shall not be more than 3 percent higher than the base rate at any time.

If the period of default lies in two or more financial years, the base rate of Late Payment Surcharge shall be calculated separately for the periods falling in different years.

The above payment will be made by SJVN subject to such late payment surcharge being duly received by SJVN under the PSA from the Buying Entity(ies).

10.3.4 Subject to the Article 9 of this Agreement, in the event of early commencement of power supply from the Project and subject to acceptance by SJVN, the payment for the power fed to the grid may be accounted from the date of commencement of such power supply, and WPD would be allowed to raise Bills against such power as per Article 10.2.1. However, payment against the 1st such bill raised by the WPD, will be made subject to acceptance of the bill by the Buying Entity(ies).

10.3.5 Rebate

For payment of any Bill including Supplementary Bill on or before Due Date, the following Rebate shall be paid by the WPD to SJVN in the following manner.

- a) A Rebate of 1.5% shall be payable to the SJVN 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 up to and including the 45th Day from the date of presentation of Bill through hard copy, shall be allowed a rebate of 1%.

For the above purpose i.e. for consideration of Rebate, the date of presentation of Bill shall be the next Business Day of delivery of the physical copy of the Bill at SJVN.

10.4 Payment Security Mechanism Letter of Credit (LC):

10.4.1 SJVN shall provide to the WPD, in respect of payment of its Monthly Bills and/or Supplementary Bills, a monthly unconditional, revolving and irrevocable letter of credit

("Letter of Credit"), opened and maintained which may be drawn upon by the WPD in accordance with this Article.

10.4.2 Before the start of supply, SJVN shall, through a scheduled bank, open a Letter of Credit in favour of the WPD, to be made operative from a date prior to the Due Date of its first Monthly Bill under this Agreement. The Letter of Credit shall have a term of twelve (12) Months and shall be renewed annually, for an amount equal to:

- i) for the first Contract Year, equal to 110% of the estimated average monthly billing;
- ii) for each subsequent Contract Year, equal to 110% of the average of the monthly billing of the previous Contract Year.

10.4.3 Provided that the WPD shall not draw upon such Letter of Credit prior to the Due Date of the relevant Monthly Bill and/or Supplementary Bill, and shall not make more than one drawal in a Month.

10.4.4 Provided further that if at any time, such Letter of Credit amount falls short of the amount specified in Article 10.4.2 due to any reason whatsoever, SJVN shall restore such shortfall before next drawl.

10.4.5 SJVN shall cause the scheduled bank issuing the Letter of Credit to intimate the WPD, in writing regarding establishing of such irrevocable Letter of Credit.

10.4.6 SJVN shall ensure that the Letter of Credit shall be renewed not later than its current expiry date.

10.4.7 All costs relating to opening, maintenance of the Letter of Credit shall be borne by SJVN.

10.4.8 If SJVN fails to pay undisputed Monthly Bill or Supplementary Bill or a part thereof within and including the Due Date, then, subject to Article 10.4.6 & 10.5.2, the WPD may draw upon the Letter of Credit, and accordingly the bank shall pay, an amount equal to such Monthly Bill or Supplementary Bill or part thereof, in accordance with Article 10.4.3 above, by presenting to the scheduled bank issuing the Letter of Credit, the following documents:

- i) a copy of the Monthly Bill or Supplementary Bill (only for energy related bills) which has remained unpaid to WPD and;
- ii) a certificate from the WPD to the effect that the bill at item (i) above, or specified part thereof, is in accordance with the Agreement and has remained unpaid beyond the Due Date;

10.5 Disputed Bill

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

10.5.2 If the SJVN disputes the amount payable under a Monthly Bill or a Supplementary Bill, as the case may be, it shall pay the undisputed amount or 50% of the invoice amount, whichever is lower, 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 WPD agrees to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.5.2, the WPD 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 WPD 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 SJVN 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 SJVN under Article 10.5.4, authorized representative(s) or a director of the board of directors/ member of board of the SJVN and WPD 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 that despite a Dispute regarding an invoice, SJVN shall, without prejudice to its right to Dispute, be under an obligation to make payment of the undisputed amount or 50% of the invoice amount, whichever is higher, 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 WPD and SJVN shall jointly sign such reconciliation statement. Within fifteen (15) days of signing of a reconciliation statement, the WPD 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 WPD 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 SJVN shall remit all amounts due under a Supplementary Bill raised by the WPD to the WPD'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. Except for payment under Article 10.7.1 (i), payment of Supplementary Bills will be made after realization of the same from the Buying Utility under the Power Sale Agreement. No Late Payment Surcharge will be applicable other than that on the monthly energy payment and associated debit and credit note.

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 taking place within the Indian territory, 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 SJVN or the WPD/WPG whose performance has been affected by an event of Force Majeure.

11.2 Force Majeure Events:

- 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 and only if it is declared / notified by the competent state / central authority / agency (as applicable);
- b) 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 if and only if it is declared / notified by the competent state / central authority / agency (as applicable); or
- c) 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 Power Project by the Affected Party or those employed or engaged by the Affected Party.
- d) An event of Force Majeure identified under Buyer-Buying Entity(ies) PSA, thereby affecting delivery of power from WPD to Buying Entity(ies).

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/Applicable Law; or
 - iii. Breach of, or default under this Agreement.
- g. Any pre-existing dispute on project land/substation and/or right-of-way or other project related issues.

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 fifteen (15) 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. The other Party shall respond on the claim of the Affected Party within 15 days of receipt of the said intimation of Force Majeure supported with documentary evidence.

11.4.2 Provided that such notice shall be a pre-condition to the Affected Party's entitlement to claim relief under this Agreement. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed. 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 this Agreement, as soon as practicable after becoming aware of each of these cessations.

11.5 Performance Excused

11.5.1 Subject to Article 11.4, 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 WPD shall be entitled for a day-to-day extension of the period provided for

Financial Closure or Scheduled Commencement of Supply of Power Period or the PPA period, as the case may be.

Provided always that a Party shall be excused from performance only to the extent reasonably warranted by the Force Majeure Event.

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 11.3, 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 Available Relief & Termination Due to Force Majeure Event

- a) If, prior to the completion of the 180 (one hundred and eighty) Day period (or any extended period) for a Force Majeure Event commencing from the date of issuance of the Force Majeure Notice, the Parties are of the reasonable view that 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.(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 1.10.(b):
 - i. no Termination Compensation shall be payable to the WPD/WPG.
 - ii. the WPD/WPG 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 these rules, unless the context otherwise requires, -

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 the last date of bid submission], including any enactment or amendment or repeal of any law, which have a direct effect on the Project, leading to corresponding changes in the cost requiring change in tariff, and includes-

- i. a change in interpretation of any law by a competent court; or
- ii. a change in any domestic tax, including duty, levy, cess, charge or surcharge by the Central Government, State Government or Union territory administration leading to corresponding changes in the cost; or
- iii. a change in any condition of an approval or license obtained or to be obtained for purchase, supply or transmission of electricity, unless specifically excluded in the agreement for the purchase, supply or transmission of electricity, which results in any change in the cost,

However, Change in Law/Regulation shall not include-

- a. Any change in taxes on Corporate income or any change in any withholding tax on income or dividends distributed to the shareholders of the generating company or transmission licensee; or
- b. change in respect of deviation settlement charges or frequency intervals by an Appropriate Commission.

The term “law” in this provision includes any Act, Ordinance, order, bye-law, rule, regulation, and notification, for the time being in force, in the territory of India.

12.2 Adjustment in tariff on account of Change in Law

12.2.1 In the event of occurrence of Change in Law i.e. any of the events as provided under Article 12.1.1 which results in any adverse financial loss/gain to the WPD/Procurer then, in order to ensure that the affected party (WPD/Procurer) is placed in the same financial position as it would have been had it not been for the occurrence of the Change in Law, the WPD/Procurer shall be entitled to compensation by the other party, as the case may be. Compensation payment or the monthly tariff or charges on account of such ‘Change in Law’ shall be adjusted and be recovered in accordance with the Electricity (Timely Recovery of Costs due to Change in Law) Rules, 2021 notified by the Ministry of Power on 22.10.2021 (and subsequent amendments, if any) to compensate the affected party.

12.2.2 For the purposes of 12.2.1 above, the affected party, which intends to adjust and recover the costs due to change in law, shall give a 21 days’ prior notice to the other party about the proposed impact in the tariff or charges, positive or negative, to be recovered from such other party.

12.2.3 The affected party shall furnish to the other party, the computation of impact in tariff or charges to be adjusted and recovered, within thirty days of the occurrence of the change in law or on the expiry of 21 days from the date of the notice referred to in 12.2.2 above, whichever is later, and the recovery of the proposed impact in tariff or charges shall start from the next billing cycle of the tariff.

12.2.4 The impact of change in law to be adjusted and recovered may be computed as one time or monthly charges or per unit basis or a combination thereof and shall be recovered in the monthly bill as the part of tariff.

12.2.5 The amount of the impact of change in law to be adjusted and recovered, shall be calculated in accordance with the formula given here under to calculate adjustment in the monthly tariff due to impact of change in law, which is non-recurring in nature. Let financial impact of change in law=P

Then the modification in the monthly tariff (MT) for compensating the financial impact is given by $MT=(Y/X)$

Where X= estimated monthly electricity generation in kWh = $(1/12) \times [\text{Contracted Capacity of the power plant as per the Agreement (in MW)} \times \text{CUF in \%} \times 8760 \text{ hours} \times 10]$ &

$$Y=\{(P \times M_r)(1 + M_r)^n\} / \{(1 + M_r)^n - 1\}$$

Where,

N=No. of months over which the financial impact has to be paid (subject to maximum of 180 months in case of the non-recurring fixed amount but in case of recurring impact it will be till the impact persists);

M_r =monthly rate of interest= $R/(12 \times 100)$;

CUF = declared or revised CUF as indicated in the Agreement; and

R = annual rate of interest on loan component (in %) as considered by the CERC in its order for Tariff Determination from Conventional or Renewable Energy Sources (whichever is applicable) for the year in which the Project is commissioned. In absence of relevant orders of CERC for the concerned year, the interest rate shall be average interest rate plus 200 basis points above the average State Bank of India marginal cost of funds based leading rate, of one-year tenor, prevalent during the last available six months for such period.

Further, generating company or intermediary procurer or the trading licensee shall true up the MT annually based on actual generation of the year so as to ensure that the payment to the affected party is capped at the yearly annuity amount.

Any such change, shall be considered upto 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.

12.2.6 The recovery of the impacted amount, in case of the fixed amount shall be,

- a. In case of generation project, within a period of one-hundred eighty months; or
- b. In case of recurring impact, until the impact persists.

- 12.2.7 The WPD shall, within thirty days of the coming into effect of the recovery of impact of change in law, furnish all relevant documents along with the details of calculation to the Appropriate Commission for adjustment of the amount of the impact in the monthly tariff or charges
- 12.2.8 The Appropriate Commission shall verify the calculation and adjust the amount of the impact in the monthly tariff or charges within sixty days from the date of receipt of the relevant documents under clause 12.2.7.
- 12.2.9 After the adjustment of the amount of the impact in the monthly tariff or charges under clause 12.2.8, the WPD, shall adjust the monthly tariff or charges annually based on actual amount recovered, to ensure that the payment to the affected party is not more than the yearly annuity amount.
- 12.2.10 In the event of any decrease in the project cost by the WPD or any income to the WPD on account of any of the events as indicated above, WPD shall pass on the benefit of such reduction at a rate as provided in Article 12.2 to SJVN which shall be further passed on to the Buying Entity. In the event of the WPD failing to comply with the above requirement, SJVN shall make such deductions in the monthly tariff payments on immediate basis. Further, at the time of raising of 1st Monthly Tariff Payment Bill, WPD shall be required to provide a statutory auditor certificate supported by Board Resolution in regard to implications (loss/ gain) arising out of Article 12.
- 12.2.11 Any notice service pursuant to this Article 12.2.7, 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.
- 12.2.12 “Project Cost” wherever applicable under this Article, shall mean the cost incurred by the WPD towards supply and services only for the Project concerned, upto the actual date of commencement of power supply from the last part capacity or upto the SCSD or extended SCSD, whichever is earlier. For example, in case the date of actual Commencement of power supply from the last part capacity is 15.04.2024, SCSD is 15.03.2024 and extended SCSD is 01.04.2024, the Project Cost shall be determined as the cost incurred by the WPD upto 01.04.2024.

ARTICLE 13: EVENTS OF DEFAULT AND TERMINATION

13.1 WPD 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 SJVN or Buying Entity(ies) of its obligations under this Agreement, shall constitute an WPD Event of Default:

- (i) the failure to commence supply of power to SJVN up to the Contracted Capacity, by the end of the period specified in Article 4, or failure to continue supply of contracted capacity/annual energy corresponding to the minimum CUF power to SJVN after the commencement of supply of power, for any Contract Year (except for the first and final Contract Years), throughout the term of this Agreement, or if
 - a) the WPD 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 WPD 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 WPD 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 WPD, or (c) the WPD 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 WPD will not be a WPD 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 WPD and expressly assumes all obligations of the WPD under this Agreement and is in a position to perform them; or
- (iii) the WPD repudiates this Agreement and does not rectify such breach within a period of thirty (30) days from a notice from SJVN in this regard; or
- (iv) except where due to any SJVN's failure to comply with its material obligations, the WPD is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the WPD within thirty (30) days of receipt of first notice in this regard given by SJVN; or
- (v) change in shareholding of the WPD before the specified time frame as mentioned in Article 4.1.1 of this Agreement, without prior consent of SJVN; or ceding of control by the promoters of M/s _____ [insert name of the Bidding

Company which was issued LoA by SJVN under the RfS] within 01 year of CSD, without prior consent of SJVN; or

- (vi) occurrence of any other event which is specified in this Agreement to be a material breach/ default of the WPD; or
- (vii) except where due to any SJVN's failure to comply with its material obligations, the WPD is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the WPD within thirty (30) days of receipt of first notice in this regard given by SJVN.
- (viii) Revoking of connectivity of the WPD on account of non-compliance by the WPD.

13.2 SJVN 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 WPD of its obligations under this Agreement, shall constitute the Event of Default on the part of defaulting SJVN:

- (i) SJVN 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 WPD is unable to recover the amount outstanding to the WPD through the Letter of Credit,
- (ii) SJVN repudiates this Agreement and does not rectify such breach even within a period of sixty (60) days from a notice from the WPD in this regard; or
- (iii) except where due to any WPD's failure to comply with its obligations, SJVN is in material breach of any of its obligations pursuant to this Agreement, and such material breach is not rectified by SJVN within sixty (60) days of receipt of notice in this regard from the WPD to SJVN; or
- (iv) if
 - SJVN 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 SJVN, or
 - SJVN 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 SJVN Event of Default, where such dissolution or liquidation of Buyer or SJVN 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 SJVN and expressly assumes all obligations of SJVN and is in a position to perform them; or;
- (v) If Buying Entities are subject to any of the above defaults and SJVN does not

designate another or other Buying Entities for purchase of power.

- (vi) Occurrence of any other event which is specified in this Agreement to be a material breach or default of SJVN.

13.3 Procedure for cases of WPD Event of Default

13.3.1 Upon the occurrence and continuation of any WPD Event of Default under Article 13.1, SJVN shall have the right to deliver to the WPD, with a copy to the representative of the lenders to the WPD with whom the WPD has executed the Financing Agreements, a notice stating its intention to terminate this Agreement (SJVN 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 SJVN 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 WPD Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, SJVN may terminate this Agreement by giving a written Termination Notice of sixty (60) days to the WPD.

13.3.5 Subject to the terms of this Agreement, upon occurrence of a WPD Event of Default under this Agreement, the WPD shall be liable to pay to SJVN, penalty, as provided in Article 4.6 of the PPA for failure to commence supply of power of contracted capacity within the stipulated time and Article 4.4.1 for failure to supply power in terms of the PPA. For other cases, the WPD shall be liable to pay to Buying Entity(ies), damages, equivalent to 24 (twenty-four) months, or balance PPA period, whichever is less, of tariff for its Contracted Capacity, corresponding to the committed annual CUF.

SJVN shall have the right to recover the said damages by way of forfeiture of PBG/POI, if any, without prejudice to resorting to any other legal course or remedy.

In addition to the levy of damages as aforesaid, in the event of a default by WPD, the lenders in concurrence with the Buying Entity and SJVN, may exercise their rights, if any, under Financing Agreements, to seek substitution of the WPD by a selectee for the residual period of the Agreement, for the purpose of securing the payments of the total debt amount from the WPD and performing the obligations of the WPD. However, in the event the lenders are unable to substitute the defaulting WPD within the stipulated period, SJVN may terminate the PPA. Provided that any substitution under this Agreement can only be made with the prior consent of SJVN including the condition that the selectee meets the eligibility requirements of Request for Selection (RfS) issued by SJVN and accepts the terms and conditions of this Agreement.

13.3.6 The lenders in concurrence with the Buying Utility and SJVN, 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 WPD shall cooperate with SJVN 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 WPD to SJVN.

13.4 Procedure for cases of SJVN Event of Default

13.4.1 Upon the occurrence and continuation of any SJVN Event of Default specified in Article 13.2, the WPD shall have the right to deliver to SJVN, a WPD 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 WPD 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 their respective 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 SJVN Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, SJVN under intimation to the Buying Entity and the WPD shall, subject to the prior consent of the WPD, novate its part of the PPA to any third party, including its Affiliates within the stipulated period. In the event the aforesaid novation is not acceptable to the WPD, or if no offer of novation is made by SJVN within the stipulated period, then the WPD may terminate the PPA and at its discretion require SJVN to pay to the WPD, damages, equivalent to 24 (twenty-four) months, or balance PPA period, whichever is less, of charges of its Contracted Capacity corresponding to the committed annual CUF. In case SJVN's Event of Default is triggered by a default on the part of the Buying Entity, the above amount will be recovered by SJVN from the Buying Entity.

In the event of termination of PPA/PSA, on account of Event of Default by the SJVN/Buying Entity, any damages or charges payable to the STU/ CTU, for the connectivity of the plant, shall be borne by the entity whose failure/default triggered the termination of this Agreement.

13.5 Termination due to Force Majeure

If the Force Majeure Event or its effects continue to be present beyond the period as specified in Article 4.5.3, termination of this Agreement shall be caused solely at the discretion of SJVN. In such an event, this Agreement shall terminate on the date of such Termination Notice as issued by SJVN without any further liability to either Party from the date of such termination.

ARTICLE 14: LIABILITY AND INDEMNIFICATION

14.1 Indemnity

14.1.1 The WPD shall indemnify, defend and hold SJVN harmless against:

- a) any and all third-party claims against SJVN 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 WPD of any of its obligations under this Agreement or due to the WPD's willful misconduct, gross negligence or fraudulent behavior or violations of Applicable Law; and
- b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest actually suffered or incurred by SJVN from third party claims arising by reason of a breach by the WPD of any of its obligations under this Agreement, (provided that this Article 14 shall not apply to such breaches by the WPD, for which specific remedies have been provided for under this Agreement).

14.1.2 SJVN shall cause the Buying Entity(ies) to indemnify, defend and hold the WPD harmless against:

- a) any and all third-party claims against the WPD, 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 Buying Entity(ies) 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 WPD from third party claims arising by reason of a breach by Buying Entity(ies) of any of its obligations. SJVN shall incorporate appropriate covenants in the PSA for the above obligations of Buying Entity(ies). In so far as indemnity to WPD is concerned, Buying Entity(ies) shall be the indemnifying party and not SJVN.

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 WPD nor SJVN nor Buying Entity(ies) 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, indirect or 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 Buying Entity(ies) , the WPD or others), strict liability, contract, breach of statutory duty, operation of law or otherwise.
- 14.4.2 SJVN shall have no recourse against any officer, director or shareholder of the WPD or any Affiliate of the WPD or any of its officers, directors or shareholders for such claims excluded under this Article. The WPD shall have no recourse against any officer, director or shareholder of Buyer or Buying Entity(ies), or any affiliate of Buyer or any of its officers, directors or shareholders for such claims excluded under this Article.

14.5 SJVN's Liability

14.5.1 Notwithstanding anything to the contrary contained in this Agreement, the Parties acknowledge and accept that the SJVN is an Intermediary Company to purchase and resell the electricity to the Buying Utility(ies) to enable them to fulfill the Renewable Purchase Obligations (RPO) and power demand, therefore, the performance of the obligations of the SJVN under this Agreement shall be subject to the ability of the SJVN to enforce the corresponding obligations assumed by the Buying Utility(ies) on re-sale under the PSA to be entered into by the Buying Utility(ies) with SJVN. It is however, specifically agreed that in the event of the Buying Entity(ies) defaulting or delaying the payment of the amount becoming due to SJVN to enable SJVN to effectively pay the amount to the WPD, the payment of money becoming due from SJVN to the WPD under this Agreement for supply of Power to the extent of the Contracted Capacity shall not be on a back-to-back basis and shall be as per:

- (i) the recourse under the Payment Security Mechanism provided in the PPA and PSA as follows:
 - (a) Letter of Credit;
 - (b) State Government Guarantee/ Tri-Partite Agreement (TPA) signed between Reserve Bank of India, Central Government and State Government of the Buying Entity, covering security for payment of energy charges, as applicable;
 - (c) Payment Security Fund provided by the Buying Entity, and
- (ii) Payment security fund as referred in Article 10.1.1 of the PPA.

SJVN shall discharge the tariff payment obligation in terms of the provisions of this Agreement.

14.5.2 The parties agree that in respect of the obligations other than the tariff payment obligation specifically mentioned herein above, in the event the WPD has any claim against the SJVN in regard to the performance of any obligation of the SJVN under this Agreement or enforcement of any right of the WPD against the SJVN under this Agreement, the same shall be subject to the ability of the SJVN to enforce the corresponding obligations assumed by the Buying Utility(ies) under the Power Sale Agreement to be entered into between the SJVN and the Buying Utility(ies) on resale on mutatis mutandis basis and not otherwise.

14.6 Duty to Mitigate

14.6.1 The Parties shall endeavour to take all reasonable steps so as to 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 SJVN 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 SCSD under this Agreement.

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

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

The enforcement of the rights and obligation between the WPD and the Buying Utility(ies) provided in this Agreement and in the PSA 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. 15 Lakh + 18% GST per Transaction as Facilitation Fee (non-refundable) shall be deposited by the WPD to SJVN. Provided further that, such consent shall not be withheld by the WPD if SJVN seeks to transfer to any affiliate all of its rights and obligations under this Agreement.

15.2 Permitted Charges

15.2.1 WPD 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 Amicable Settlement

- i. 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:
 - (a) a description of the Dispute;
 - (b) the grounds for such Dispute; and
 - (c) all written material in support of its claim.
- ii. The other Party shall, within thirty (30) days of issue of Dispute Notice issued under Article 16.2.1(i), furnish:
 - (a) counter-claim and defences, if any, regarding the Dispute; and
 - (b) all written material in support of its defences and counter-claim.
- iii. Within thirty (30) days of issue of Dispute Notice by any Party pursuant to Article 16
 - a) if the other Party does not furnish any counter claim or defence under Article 16
 - b) 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.
 - c) 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: In the event CERC is the Appropriate Commission, any dispute that arises claiming any change in or regarding determination of the tariff or any tariff related matters, or which partly or wholly could result in change in tariff, such dispute shall be adjudicated by the CERC. All other disputes shall be resolved by the Dispute Resolution Committee set up by the Government, failing which by arbitration under the Indian Arbitration and Conciliation Act, 1996. In the event SERC/JERC is the Appropriate Commission, then all disputes shall be adjudicated by the SERC/JERC or shall be referred for arbitration by the SERC/JERC.

16.3.2 SJVN shall be entitled to co-opt the Buying Entity(ies) and/or the lenders (if any) as a supporting party in such proceedings before the Appropriate Commission.

16.3.3 MNRE vide its Order No.283/56/2019-GRID SOLAR/Pt. dated 07.06.2023 has set up a Dispute Resolution Mechanism (**DRM**). The WPD may approach DRM for resolving disputes as per provisions notified by MNRE in regard to DRM

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 back-to-back implications of the PPA as well as PSA, 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 authorized 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 the 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 WPD, 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 SJVN, 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 WPD shall bear and promptly pay all statutory taxes, duties, levies and cess, assessed/levied on the WPD, contractors or their employees that are required to be paid by the WPD 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 SJVN shall be indemnified and held harmless by the WPD against any claims that may be made against SJVN in relation to the matters set out in Article 17.9.1.

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

17.10 Independent Entity

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

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

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. The duly executed Power Sale Agreement between SJVN and Buying entity(s) as attached to this Agreement shall be read along with this Agreement as a composite back-to-back agreement for Generation and supply of electricity to the Buying entity(s), particularly, to fulfill the Renewable Purchase Obligations (RPO) under the provisions of the Electricity Act, 2003 and the Regulations notified thereunder.

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/penalty or the method of calculating the liquidated damages/penalty 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 thereunder;
- ii. the Grid Code; and
- iii. the terms and conditions of this Agreement;

IN WITNESS 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[SJVN]

[WPD]

Name, Designation and Address
Signature with Seal

Name, Designation and Address
Signature with Seal

Witness:

Witness:

1.

1.

2.

2.

SCHEDULE 1: FORMAT FOR PERFORMANCE BANK GUARANTEE (PBG)

(to be submitted separately for each Project)

(To be stamped in accordance with Stamp Act, on 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 'selected Wind Power Developer') submitting the response to RfS inter alia for _____ [Insert name of the RfS] of the capacity of _____ MW, at _____ [Insert name of the place], for supply of power there from on long term basis, in response to the RfS dated _____ issued by SJVN Limited (hereinafter referred to as SJVN) and SJVN considering such response to the RfS of _____ [insert the name of the selected Wind Power Developer] (which expression shall unless repugnant to the context or meaning thereof include its executors, administrators, successors and assignees) and selecting the Wind Power Project of the Wind Power Developer and issuing Letter of Award No. _____ to _____ (Insert Name of selected Wind Power Developer) as per terms of RfS and the same having been accepted by the selected WPD resulting in a Power Purchase Agreement (PPA) to be entered into, for purchase of Power [from selected Wind 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 SJVN at [Insert Name of the Place from the address of the SJVN] without demure forthwith on demand in writing from SJVN or any Officer authorized by it in this behalf, any amount up to and not exceeding Indian Rupees [Total Value] only, on behalf of M/s _____ [Insert name of the selected Wind 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 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 _____. SJVN shall be entitled to invoke this Guarantee till _____.

The Guarantor Bank hereby agrees and acknowledges that SJVN shall have a right to invoke this

SJVN-WPD PPA

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 SJVN, made in any format, raised at the above-mentioned address of the Guarantor Bank, in order to make the said payment to SJVN.

The Guarantor Bank shall make payment hereunder on first demand without restriction or conditions and notwithstanding any objection by _____ [Insert name of the selected Wind Power Developer / Project Company as applicable] and/or any other person. The Guarantor Bank shall not require SJVN to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against SJVN 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 SJVN shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against the selected Wind Power Developer / Project Company, to make any claim against or any demand on the selected Wind Power Developer / Project Company or to give any notice to the selected Wind Power Developer / Project Company or to enforce any security held by SJVN or to exercise, levy or enforce any distress, diligence or other process against the selected WPG Power Developer / Project Company.

This BANK GUARANTEE shall be effective only when the Bank Guarantee issuance message is transmitted by the issuing Bank through SFMS to State Bank of India, CAG Branch, 5th Floor, Parsvanatha Capital Tower, Bhai Veer Singh Marg, Gol Market, New Delhi-110001 IFSC code: SBIN0017313, Client Name: SJVN Ltd. and a confirmation in this regard is received by SJVN.

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

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to INR _____ (Indian Rupees _____ 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 SJVN 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.

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 Scheduled Commercial Banks as listed on the website of Reserve Bank of India (RBI) and amended as on the date of issuance of Bank Guarantee. Bank Guarantee issued by foreign branch of a Scheduled Commercial Bank is to be endorsed by the Indian branch of the same bank or State Bank of India (SBI).

SCHEDULE 2: FORMAT OF PAYMENT ON ORDER INSTRUMENT TO BE ISSUED BY IREDA/REC/PFC (IN LIEU OF PBG)

(to be submitted separately for each Project)

No.

Date

SJVN,

Registered

Reg: M/s _____ (insert name of the PPA signing entity) (Project No. _____ (insert project ID issued by SJVN) – 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. SJVN 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 as under: *After carefully examining the matter, the Ministry have decided as follows:*

- i) *SJVN 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 & 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) (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)). This Payment on Order Instrument comes into force immediately.

4. In consideration of the _____ [Insert name of the Bidder] (hereinafter referred to as selected Wind Power Developer) submitting the response to RfS inter alia for selection of Contracted Capacity of _____ MW, at _____ [Insert name of the place] under RfS for _____ [Insert name of the RfS], for supply of power there from on long term basis, in response to the RfS dated _____ issued by SJVN Ltd (hereinafter referred to as SJVN) and SJVN considering such response to the RfS of _____ [insert the name of the selected Wind Power Developer] (which expression shall unless repugnant to the context or meaning thereof include its executors, administrators, successors and assignees) and selecting the Wind Power Project of the Wind Power Developer and issuing Letter of Award No _____ to (Insert Name of selected Wind Power Developer) as per terms of RfS and the same having been accepted by the selected WPD resulting in a Power Purchase Agreement (PPA) to be entered into, for purchase of Power [from selected Wind 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 SJVN at _____ [Insert Name of the Place from the address of the SJVN] forthwith on demand in writing from SJVN 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 Wind 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 SJVN on the following conditions:-

- (a) IREDA/REC/PFC agrees to make payment of the said amount unconditionally, without demur and without protest within a period of _____ days upon receipt of request from SJVN within the validity period of this letter as specified herein;
- (b) The commitment of IREDA/REC/PFC, under this Payment of 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 SJVN;
- (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 (SJVN and Bidding Party), 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 SJVN made in any format within the validity period. IREDA/REC/PFC shall not require SJVN to justify the invocation of the POI against the SPV/WPD, to make any claim against or any demand against the SPV/WPD or to give any notice to the SPV/WPD;
- (g) The POI shall be the primary obligation of IREDA/REC/PFC and SJVN shall not be obliged before enforcing the POI to take any action in any court or arbitral proceedings against the SPV/WPD;
- (h) Neither SJVN is required to justify the invocation of this POI nor shall IREDA/REC/PFC have any recourse against SJVN 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 thereunder 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.

SJVN-WPD PPA

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:

To be notified within 90 days (of signing of this Agreement) or any extended date but not later than 60 days prior to the SCSD

SCHEDULE 4: ILLUSTRATION (Please refer Article 4.4.3)

❖ Assumptions

- i) Total contracted capacity = 500 MW
- ii) Annual CUF declared by WPD = 25 %
- iii) Permissible lower limit of annual CUF= 25 % - 2.50 % =22.50 %
- iv) Actual annual CUF achieved in a particular year=20 %
- v) Applicable Tariff: Rs.3.00 / kWh

Shortfall in annual offering of energy from Wind Project:

- 1) Total Wind power offered (MWh) for the year = 8,76,600 MWh (Considering tentative CUF of 20.00 %)
- 2) Minimum annual energy from Wind power sources committed at the time of bid submission = $500 \times 8766 \times 0.225 = 986175$ MWh (at 22.50 % availability)
- 3) Thus, Annual Shortfall in energy offered through Wind RE power in the year = $986175 - 876600 = 109575$ MWh
- 4) Damages due to shortfall in Wind power offered for the year = (Annual shortfall x Applicable Tariff x 0.5 x 1000) = $109575 \times 3.00 \times 0.5 \times 1000 =$ **Rs. 164362500/-**

As per the provisions of the RfS and PPA, both damages will be levied on the developer for the corresponding Contract Year

Note: The above illustration has been provided for a sample monthly data, based on assumptions as indicated. Actual calculations for liquidated damages will be made for the yearly data as per REA.

SCHEDULE 5: SJVN-BUYING ENTITY(IES) POWER SALE AGREEMENT(S)

Appendix-A: Details of Generators