Notice for RFP (Request for Proposal)

The Dy. Chief Electrical Engineer/P&D)/ E.Rly/KPA for and on behalf of the President of India invites request for proposal (RFP) from the responsive shortlisted bidders vide RFQ tender no.: EPD/W/CON/PPP/Solar Plant/2022-23, Dt.20.06.2022 for the following work on the prescribed format as mentioned below:-

BID INFORMATION SHEET	
RFP No. & Date	RFP No: EPD/W/CON/PPP/Solar Plant/RFP /2022-23, Dt.08.09.2022
Reference RFQ No. & Date	EPD/W/CON/PPP/Solar Plant/2022-23, Dt.20.06.2022
Name of the work	**Installation of grid connected roof-top solar photo voltaic Modules of 2.5 MWp Capacity system with the objective of generating and supplying to workshop installation through developer mode with power purchase agreement (PPA) at KANCHRAPARA Workshop, Eastern Railway.**
Issue of RFP / tender document	From 09.09.2022, 16:00 Hrs to till tender submission Tender Documents are available on Railways website www.er.indianrailways.gov.in
Last date of seeking clarifications	17.09.2022
Pre Bid Meeting	NA
Issue of Addendum	**If necessary, may be informed later.**
Tender Box	**Tender Box will be available at the office of the Dy.CEE/P&D/Kanchrapara/ER**
Last date & Time of Submission of Response of RFP	10.10.2022 **up to 15:00 Hrs.**
Bid Opening	10.10.2022 **at 15:30 Hrs.**
Processing Fee (non- refundable)	**INR 40,000/- (Forty Thousand) only** (inclusive of 5% DVAT) Non-Refundable (Demand Draft /Banker's cheque) drawn on a Scheduled Commercial Bank based in India and should be in favour of "FA&CAO/E.Rly./Kolkata" payable at Kolkata.) **Cost of tender documents i.e, D.D./Banker's cheque, in original, has already been acknowledged.**
Bid Security	INR 50 (Fifty) Lakh only along with the response to RFP as per format attached in Appendix-II (Please refer clause no. 1.9.1)

Important Note:- Bidders are requested to remain updated for any notices / amendments/clarifications etc. to the RFP document through the website www.er.indianrailways.gov.in. No separate notifications will be issued for such notices/amendments/clarification etc. in the print media or individually.

All the information related to this RFP shall be updated in the Railways website www.er.indianrailways.gov.in

Abhay
07-9-22

(ए. के. गुप्ता/ A. K. GUPTA)
उप मुख्य बिजली इंजीनियर/ पी एंड डी/पूर्व रेलवे/ कांचरापाड़ा/
Dy. Chief Electrical Engineer/P&D)/ E.Rly/KPA
Mobile No: - 9002027302, E-Mail ID: dyceeplanningkpa@gmail.com

Tender Document for Request for Proposal (RFP) For Rooftop Solar Projects for Kanchrapara Workshop

Reference RFQ No.	EPD/W/CON/PPP/Solar Plant /2022-23, 20.06.2022

Name of Work	Installation of grid connected roof-top solar photo voltaic Modules of 2.5 MWp Capacity system with the objective of generating and supplying to workshop installation through developer mode with power purchase agreement (PPA) at KANCHRAPARA Workshop, Eastern Railway

Office of the
Dy. Chief Electrical Engineer/P&D/KPA,
Kanchrapara Workshop,
Eastern Railway,
Kanchrapara-743145
Email: dyceeplanningkpa@gmail.com

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Request for Proposals (RFP) No:

EPD/W/CON/PPP/Solar Plant/RFP /2022-23, Dt.08.09.2022

C. Disclaimer

The information contained in this Request for Proposals document (the "**RFP**") or subsequently provided to Bidder(s), whether verbally or in documentary or any other form by or on behalf of the Railways or any of its employees or advisors, is provided to Bidder(s) on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This RFP is not an agreement and is neither an offer nor invitation by the Railways to the prospective Bidders or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in making their financial offers (Bids) pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by the Railways in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Railways, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in the Bidding Documents, especially the [Feasibility Report], may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources.

Information provided in this RFP to the Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Railways accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The Railways, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Applicant or Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way for participation in this Bid Stage.

The Railways also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RFP.

The Railways may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFP.

The issue of this RFP does not imply that the Railways is bound to select a Bidder or to appoint the Selected Bidder or SPD, as the case may be, for the Project and the Railways reserves the right to reject all or any of the Bidders or Bids without assigning any reason whatsoever.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Railways or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and the Railways shall not be liable in any manner whatsoever for the same or for any other costs or other

expenses incurred by a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process.

1. Though adequate care has been taken while preparing the RFP document. The Bidders shall satisfy themselves that the document is complete in all respects. Intimation of any discrepancy shall be given to this office immediately.

2. Indian Railways (Railways) reserves the right to modify, amend or supplement this RFP document including all formats and Annexures.

3. While this RFP has been prepared in good faith, neither Railways 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 RFP, even if any loss or damage is caused by any act or omission on their part.

4. The information contained in this Request for Proposals document (the "**RFP**")or subsequently provided to Bidder(s), whether verbally or in documentary or any other form by or on behalf of the Railways or any of its employees or advisors, is provided to Bidder(s) on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided

5. This RFP is not an agreement and is neither an offer nor invitation by the Railways to the prospective Bidders or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in making their financial offers (Bids) pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by the Railways in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Railways, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in the Bidding Documents, especially the [Feasibility Report], may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources

6. Information provided in this RFP to the Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Railways accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein

7. The Railways, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Applicant or Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way for participation in this Bid Stage.

8. The Railways also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RFP.

9. The Railways may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFP.

10. The issue of this RFP does not imply that the Railways is bound to select a Bidder or to appoint the Selected Bidder or SPD, as the case may be, for the Project and the Railways reserves the right to reject all or any of the Bidders or Bids without assigning any reason whatsoever

11. The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Railways or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and the Railways shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process

DEFINITION

1. **" Associate"** means with respect to any specified Person, any other Person directly or indirectly controlling, controlled by or under common control with such specified Person;

2. **"B.I.S"** shall mean specifications of Bureau of Indian Standards (BIS).

3. **"Bids"** shall mean the Techno Commercial Bid submitted by the Bidder along with all documents / credentials / attachments annexure etc., in response to this RFQ, in accordance with the terms and conditions hereof.

4. **"Bidder/Bidding Company"** shall mean Bidding Company submitting the Bid.
Any reference to the Bidder includes Bidding Company / including its successors, executors and permitted assigns as the context may require".

5. **"Bid Security"** shall mean the unconditional and irrevocable bank guarantee to be submitted along with the Bid at the RFP stage. The details will be provided to the qualified bidders at the RFP stage.

6. **"Bid Capacity"** shall means capacity offered by the bidder in his Bid under invitation.

7. **"Bid Deadline"** shall mean the last date and time for submission of Bid in response to this RFQ as specified in Bid information Sheet.

8. **Bid Due Date** As defined in Bid Information Sheet

9. **Bidding Documents** As defined in RFQ

10. **"CEA"** shall mean Central Electricity Authority.

11. **Central Financial Assistance** means the financial assistance to the eligible projects as per MNRE Guidelines. CFA will be available to the successful bidder and would be calculated as [15%] of either the MNRE benchmark cost, which is Rs 8 crore per MW or the total project cost, whichever is lower.

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.

13. **"Competent Authority''** shall mean General Manager (GM) of Eastern Railways, himself and/or a person or group of persons nominated by GM for the mentioned purpose herein.

14. **"Commissioning"** means Successful operation of the Project / Works by the Contractor, for the purpose of carrying out Performance Test(s) as defined in RFQ.

15. **"Company"** shall mean a body incorporated in India under the Companies Act, 1956 or Companies Act, 2013 including any amendment thereto.

16. **"Contracted capacity"** shall mean the Total aggregate capacity in MWp, proposed to be allocated by Railways to the Successful Bidder through this bidding process as per terms and conditions specified therein.

17. **Conflict of Interest** As defined in RFQ

18. **Consortium** As defined in RFQ

19. **"(CUF) Capacity Utilization Factor"** means the ratio of the annual output of the plant in kWh versus contracted plant capacity for number of days. CUF = plant output in kWh / (contracted plant capacity in kWp (DC side) * 365X24)

20. **[DBFOT]** Design, Built, Finance, Operate and Transfer

21. **"Estimated Project Cost"** means Benchmark cost of MNRE at the time of Bid Due date.

22. **Financial Capacity** As defined in RFQ

23. **Government** means Government of India

24. **"IEC"** shall mean specifications of International Electro-technical Commission.

25. **"Jt. Bidding Agreement"** As defined in RFQ

26. **"kWp"** shall mean Kilo-Watt Peak(Rated Power).

27. **"kWh"** shall mean Kilo-Watt-hour

28. **Lead Member** As defined in RFQ

29. **LOA** -Letter of Award

30. **"MNRE"** shall mean Ministry of New and Renewable Energy, Government of India

31. **"Maximum Bid Capacity"** shall mean the maximum capacity for which the Bidder can submit its Bid.

32. **"Member"** meansMember of a Consortium

33. **"Net Metering"** shall mean arrangement under which rooftop solar system the system installed at eligible consumer premises delivers surplus electricity, if any, to the Distribution Licensee after off-setting the electricity supplied by distribution licensee during the applicable billing period. (As per WBERC Notification No.71/WBERC dt.Kolkata 21st December 2020 at Sl No. 20(c) Net metering arrangement may be provided for eligible consumer having sanction load/contract demand upto 5 KW)

34. **"O&M"** shall mean Operation & Comprehensive Maintenance of Rooftop Solar PV System

35. "Power **Purchase Agreement or Agreement**" means an Agreement executed hereof between Railways and SPD, including the schedules, amendments, modifications and supplements made in writing by the Parties from time to time; .This will be supplemented along with the RFP document to the qualified bidders.

36. **"PPP model"** shall mean where the bidders intend to take a rooftop/sites owned by Railways on mutually agreed terms and conditions from Railways and enters into the PPA with Railways for supply of Solar power for 25 years from the date of Commissioning of project as per the guidelines issued by MoF.

37. **Re. or Rs. or INR** means Indian Rupee

38. **"SPD"** shall mean **Solar Power Developer shall** mean Company incorporated by the bidder as per Indian Laws in accordance with Companies Act, 1956 or Companies Act 2013

39. **SPV** As defined in RFQ

40. **"Statutory Auditor"** shall mean the auditor of a Company appointed under the provisions of the Companies Act, 1956 or Companies Act 2013 or under the provisions of any other applicable governing law.

41. **"Successful Bidder(s) /Contractor/Project Developers(s)"** shall mean the Bidder(s) selected by Railways pursuant to this RFQ, for Implementation of Grid Connected Roof Top Solar PV System as per the terms of the RFQ Documents, and to whom aLoA has been issued.

42. **"SNA"** shall mean State Nodal Agency.

43. **Technical Capacity** As defined in Clause 2.2.2 (A) in RFQ.

44. "**Total Project Cost**" means the capital cost incurred on construction and financing of the Project and shall be limited to the lowest of ;

(a) The capital cost of the Project Assets less CFA as set forth in the Financial Package;

(b) The actual capital cost of the Project Assets less CFA upon completion of the Project;'

provided that in the event of Termination, the Total Project Cost shall be deemed to be modified to the extent of variation in WPI or Reference Exchange Rate occurring in respect of Adjusted Equity and Debt Due, as the case may be, in accordance with the provisions of this Agreement;

45. **"Wp"** shall mean Watt Peak.

INTERPRETATIONS

1. Words comprising the singular shall include the plural & vice versa

2. An applicable law shall be construed as reference to such applicable law including its amendments or re-enactments from time to time.

3. A time of day shall save as otherwise provided in any agreement or document be construed as a reference to Indian Standard Time.

4. Different parts of this contract are to be taken as mutually explanatory and supplementary to each other and if there is any differentiation between or among the parts of this contract, they shall be interpreted in a harmonious manner so as to give effect to each part.

The table of contents and any headings or sub headings in the contract has been inserted for case of reference only & shall not affect the interpretation of this agreement

1. INTRODUCTIONs

1.1 Background

1.1.1 Railways invites eligible applicants to participate in the bidding process for **"Installation of grid connected roof-top solar photo voltaic Modules of 2.5 MWp Capacity system with the objective of generating and supplying to workshop installation through developer mode with power purchase**

agreement (PPA) at KANCHRAPARA Workshop, Eastern Railway". The Project is located at the following location(s) as mentioned in clause 1.2.1 having an aggregated capacity of 2.5 M**Wp** herein after referred to as contracted capacity. The generated solar power will be utilized solely by Railways without net metering system. The scheme aims to reduce the fossil fuel based electricity load on main grid and make building self-sustainable from the point of electricity, to the extent possible

1.1.2 The Bidder is advised to read carefully all instructions and conditions appearing in this document and understand them fully. All information and documents required as per the bid document must be furnished. Failure to provide the information and / or documents as required may render the bid technically unacceptable. The Selected Bidder, who is either a company incorporated under the Companies Act, 1956/ 2013 or undertakes to incorporate as such prior to execution of the PPA (the "SPD"), shall be responsible for [designing,] engineering, financing, procurement, construction, operation and maintenance of the Project under and in accordance with the provisions of a [long-term] PPA (the "Power Purchase Agreement") to be entered into between the Selected Bidder and the Railways in the form provided by the Railways as part of the Bidding Documents pursuant hereto. The bidder shall be deemed to have examined the bid document, to have obtained his own information in all matters whatsoever that might affect the carrying out the works in line with the scope of work specified elsewhere in the document at the offered rates and to have satisfied himself to the sufficiency of his bid. The bidder shall be deemed to know the scope, nature and magnitude of the works and requirement of materials, equipment, tools and labour involved, wage structures and as to what all works he has to complete in accordance with the bid documents irrespective of any defects, omissions or errors that may be found in the bid documents.

1.2 Brief Description of Bidding Process

1.2.1 Bids are invited from the prospective bidders for the Contracted Capacity as indicated below against selected sites of Railways. In this part, CFA of amount as given in Definition will be made available to the Successful Bidder. Bidders will be required to furnish flat tariff for 25 years starting from the date of commissioning of the Project. Successful bidder will be selected based ***only*** on the lowest quoted tariff

List of Selected Sites of Railways
(Refer Schedule B of PPA)

Sl. No.	Installation Location at Railways	Approximate Rooftop/shed space available as per survey (sq mtr)	Proposed Power Pack Capacity (KWp)	Connecting Voltage (V)	Connected Load (kW)	Annual Power Consumption (KWH)
1.	**29 B App**	900	100	415	80	24000
2.	**Shop 29 Main Shop Low**	900	100	415	750	115000
3.	**Shop 29 Main Shop High**	4000	750	415	711	104000
4.	**HLR Store Ward**	500	50	415	60	57600
5.	**Shop 20**	2400	500	415	1500	234000
6.	**Shop 18/25**	14080	1000	415	2587	264300
7.	**Total**	22780	2500	415	5688	798900

The above table provides indicative capacities. Bidders are required to economize the allocated space on the rooftop.

The tender is for aggregated capacity of 2.5 MWp Solar PV Power System.

1.2.2. The above sites or capacities indicated above may likely vary during tender however final LoA will indicate the capacities, sites allocated. or each site, where the projects are required to be installed along with the respective capacities for each site is indicated in the tables above in Clause 1.2.1 **However, Railways reserves the right to allow the installation of projects in any other site at its own discretion depending on the merit of the case, as per the provisions provided hereinafter.**

3. The preliminary survey details are as mentioned in table of Clause 1.2.1, however the bidder shall ensure survey of the site for the installation of capacities as indicated above and Railways holds no responsibilities for the correctness of the above data.

4. After the (LoA) the Bidder has to carry out a detailed survey of the sites and submit the calculation, and complete the engineering document for the approval of Railways.

5. In this RFP, the term "Lowest Bidder" shall mean the bidder who is offering the lowest tariff (cost of per unit solar power).

3. SIZE OF THE PROJECTS

1.3.1 Successful bidders to whom LoA has been issued will be allowed to submit proposal for approval and issue of sanction letter by Railways. Sanction letter will be issued for the total aggregate capacity submitted by the bidder for approval as per above.

4. BID CAPACITY

The Bidder shall apply for minimum 100% of Contracted capacity for selected sites indicated in table in Clause 1.2.1.

1.4.1. The Power Purchase Agreement sets forth the detailed terms and conditions for grant of the contract to the SPD, including the scope of the SPD's services and obligations; obligations of Railways and Railways' rights to amend, alter, change, supplement or clarify the scope of work. The Agreement to be executed will be in pursuant to this RFP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this RFP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by the Railways.

1.4.2. The Railways shall receive Bids pursuant to this RFP in accordance with the terms set forth in this RFP and other documents to be provided by the Railways pursuant to this RFP, as modified, altered, amended and clarified from time to time by the Railways (collectively the "**Bidding Documents**"), and all Bids shall be prepared and submitted in accordance with such terms on or before the date specified in Clause 1.6 for submission of Bids (the "**Bid Due Date**").

1.5. Brief description of Bidding Process

1.5.1 The Railways has adopted a two-stage bidding process (collectively referred to as the "**Bidding Process**") for selection of the Bidder for award of the Project. The first stage (the "**Qualification Stage**") of the process involved pre-qualification of interested parties/ Consortia in accordance with the provisions of the RFQ. At the end of the Qualification Stage, the Railways short-listed Applicants who are eligible for participation in this second stage of the Bidding Process (the "**Bid Stage**") comprising Request for Proposals.

The Bidder shall inter-alia take into account the following while preparing and submitting the Price Bid duly signed by an authorized signatory. The Bidder shall submit sealed Price Bid(s) in Annex to Appendix I. The envelope shall be superscripted as "Price Bid for 2.5 MWp capacity for "**Installation of grid connected roof-top solar photo voltaic Modules of 2.5 MWp Capacity system with the objective of generating and supplying to workshop installation through developer mode with power purchase agreement (PPA) at KANCHRAPARA Workshop, Eastern Railway.**"

1.6. BID DUE DATE

The Bidder should submit the Bids so as to reach the address indicated below by **15:00 hrs.** (IST) on or before **10.10.2022.**

Office of the
Dy.Chief Electrical Engineer/P&D/KPA,
Eastern Railway /Kanchrapara
Email: dyceeplanningkpa@gmail.com

1.7. VALIDITY OF BID

The bid and the Price Schedule included shall remain valid for a period of 180 days from the date of techno-commercial bid opening, with bidder having no right to withdraw, revoke or cancel his offer or unilaterally vary the offer submitted or any terms thereof. In case of the bidder revoking or cancelling his offer or varying any term & conditions in regard thereof or not accepting LoA, Railways shall forfeit the Bid Security furnished by him. *Confirmation regarding the Bid offer validity shall be clearly mentioned in the covering letter.*

In exceptional circumstances when LOA is not issued, the Railways may solicit the Bidder's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The Bid Security provided under to be provided as in the format mentioned in Appendix II shall also be suitably extended. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request will neither be required nor permitted to modify its Bid in any manner.

1.8. METHOD OF BID SUBMISSION

Bids are required to be submitted in a single sealed cover containing the price bid. The Bidders have the option of sending their Bid by hand delivery only, so as to reach Railways by the Bid Deadline. Bids submitted by telex/telegram/fax/e- mail/courier etc. shall not be considered under any circumstances. Railways shall not be responsible for any delay in receipt of the Bid. Any Bid received after the Bid Deadline shall be returned unopened. The envelope containing the price bid shall not contain any other information. All pages of the Bid, except for the Bid Security, and any other document executed on non-judicial stamp paper, forming part of the Bid and corrections in the Bid, if any, must be signed by the authorized signatory on behalf of the Bidder. It is clarified that the same authorized signatory shall sign all pages of the Bid. However, any published document submitted with the Bid shall be signed by the authorized signatory at least on the first and last page of such document Bidders shall submit the Bid in original, duly signed by the their authorized signatory of the Bidder. No change or supplemental information to a Bid will be accepted after the Bid Deadline, unless the same is requested for by Railways.

If the Price bids is not closed and not transcript as per the specified requirement, Railways will assume no responsibility for the Bid's misplacement or premature opening.

The bid document shall be sealed properly & shall indicate the Name & address of the Bidder. The Bid must be complete in all technical and commercial respect and should contain requisite certificates, drawings, informative literature etc. as required in the Bid document. Each page of the Bid document should be signed & stamped. Bids with any type of change or modification in any of the terms/

conditions of this document shall be rejected. If necessary, additional papers may be attached by the Bidder to furnish/ submit the required information. Any term / condition proposed by the Bidder in his bid which is not in accordance with the terms and conditions of the RFP document or any financial conditions, payment terms, rebates etc. mentioned in Price Bid shall be considered as a conditional Bid and will make the Bid invalid.

In the Bid Stage, the aforesaid short-listed Applicants, including their successors, (the "**Bidders**", which expression shall, unless repugnant to the context, include the Members of the Consortium) are being called upon to submit their financial offers (the "**Bids**") in accordance with the terms specified in the Bidding Documents. The Bid shall be valid for a period of not less than 120 (one hundred and twenty) days from the Bid Due Date.

1.9. The Bidding Documents include the Model Power Purchase Agreement for the Project (which is enclosed). The sites are ready and feasible for installation of rooftop solar PV systems. However the bidder is requested to visit the sites and ascertain themselves the site conditions before submission of Bid. Subject to the provisions of Clause 2.1.3, the aforesaid documents and any addenda issued subsequent to this RFP Document, will be deemed to form part of the Bidding Documents.

1.9.1 A Bidder is required to deposit, along with its Bid, a bid security of Rs 50 Lakhs (the "Bid Security") [i.e. 20 lakhs/ MWp] refundable not later than 60 (sixty) days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the PPA. The Bidders will have an option to provide Bid Security in the form of a demand draft or a bank guarantee acceptable to the Railways. In case a bank guarantee is provided, its validity period shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Railways and the Bidder from time to time. Where a demand draft is provided, its validity shall not be less than 80 (eighty) days from the Bid Due Date, for the purposes of encashment by the Railways. The Bid shall be summarily rejected if it is not accompanied by the Bid Security. **The demand draft shall be drawn in favour of FA&CAO/E. Rly./Kolkata payable at Kolkata.**

1.9.2. During the Bid Stage, Bidders are invited to examine the Project in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the Agreement including implementation of the Project.

1.9.3 Details of the process to be followed at the Bid Stage and the terms thereof are spelt out in this RFP.

1.9.4 Any queries or request for additional information concerning this RFP shall be submitted in writing by speed post/ courier/ special messenger and by e-mail so as to reach the officer designated in Clause 2.11.5 by the specified date. The envelopes/ communication shall clearly bear the following identification/ title:

"Queries/Request for Additional Information: RFP for "**Installation of grid connected roof-top solar photo voltaic Modules of 2.5 MWp Capacity system with the objective of generating and supplying to workshop installation through developer mode with power purchase agreement (PPA) at KANCHRAPARA Workshop, Eastern Railway..**"

1.10 Schedule of Bidding Process

The Railways shall endeavour to adhere to the following schedule:

	Event Description	Date
1.	Last date for receiving queries	[17.09.2022]
2.	Railways response to queries latest by	[21.09.2022]
3.	Bid Due Date	[10.10.2022]
4.	Opening of Bids	[10.10.2022]
5.	Letter of Award (LOA)	[Within 30 days of Bid Due Date]
6.	Validity of Bids	120 days of Bid Due Date
	Signing of PPA	Within 30 days of award of LOA

BID INFORMATION SHEET	
Document Description	Document outlines the bidding process for Procurement of Project under PPP Model at selected sites of Railways.
RFP No. & Date	RFP No: EPD/W/CON/PPP/Solar Plant/RFP /2022-23, Dt.08.09.2022
Broad Scope	**Installation of grid connected roof-top solar photo voltaic Modules of 2.5 MWp Capacity system with the objective of generating and supplying to workshop installation through developer mode with power purchase agreement (PPA) at KANCHRAPARA Workshop, Eastern Railway.**
Issue of RFP / tender document	From 09.09.2022, 16:00 Hrs to till tender submission Tender Documents are available on Railways website www.er.indianrailways.gov.in
Last date of seeking clarifications	17.09.2022
Pre Bid Meeting	NA
Issue of Addendum	**If necessary, may be informed later.**
Last date & Time of Submission of Response of RFP	10.10.2022 **up to 15:00 Hrs.**
Bid Opening	10.10.2022 **at 15:30 Hrs.**
Processing Fee (non-refundable)	**INR 40,000/- (Forty Thousand) only** (inclusive of 5% DVAT) Non-Refundable (Demand Draft /Banker's cheque) drawn on a Scheduled Commercial Bank based in India and should be in favour of "FA&CAO/E.Rly./Kolkata" payable at Kolkata.) **Cost of tender documents i.e, D.D./Banker's cheque, in original, has already been acknowledged.**
Bid Security	INR 50 (Fifty) Lakh only along with the response to RFP as per format attached in Appendix-II (Please refer clause no. 1.9.1)

Performance Security (PBG)	PBG amount shall be furnished by the successful bidder after issue of Letter of Acceptance (LoA) by Railways.
Name, Designation, Address and other details (For submission of Response to RFP	Office of the Dy.Chief Electrical Engineer/P&D/KPA, Eastern Railway /Kanchrapara Email: dyceeplanningkpa@gmail.com
Important Note:- Bidders are requested to remain updated for any notices / amendments/clarifications etc. to the RFP document through the website www.er.indianrailways.gov.in. No separate notifications will be issued for such notices/amendments/clarification etc. in the print media or individually. All the information related to this RFP shall be updated in the Railways website www.er.indianrailways.gov.in	

1.11. Pre-Bid Conference

- No Pre-Bid Conference will be held.

1.12. CLARIFICATIONS

1. The Railways will not enter into any correspondence with the Bidders, except to furnish clarifications on RFP Documents, if necessary. The Bidders may seek clarifications or suggest amendments to RFP in writing, through a letter or by fax (and also soft copy by e-mail) to reach Railways at the address, date and time mentioned in Bid information sheet.

The Project is located in all the location(s) having an aggregated capacity of 2.5 MWp herein after referred to as contracted capacity.

2. The purpose of the stakeholder consultation meeting will be to clarify any issues regarding the RFP including in particular, issues raised in writing and submitted by the Bidders.

3. Railways is not under any obligation to entertain/ respond to suggestions made or to incorporate modifications sought for.

13. AMENDMENTS TO RFP BY RAILWAYS

1. At any time prior to the deadline for submission of Bids, the Railways may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, modify the RFP document by issuing clarification(s) and/or amendment(s).

2. The clarification(s) / amendment(s) (if any) may be notified on Railways website [at least Two (2) days] before the proposed date of submission of the Bid. If any amendment is required to be notified [within Two (2) days] of the proposed date of submission of the Bid, the Bid Deadline may be extended for a suitable period of time.

3. Railways will not bear any responsibility or liability arising out of non-receipt of the information regarding Amendments in time or otherwise. Bidders must check the website for any such amendment before submitting their Bid.

4. In case any amendment is notified after submission of the Bid, Bids received by Employer shall be returned to the concerned Bidders on their request through registered post or courier and it will be for the Bidders to submit fresh Bids as the date notified by the Railways for the purpose.

5. All the notices related to this Bid which are required to be publicized shall be uploaded on www.er.indianrailways.gov.in

2. INSTRUCTIONS TO BIDDERS

A. GENERAL

2.1. General terms of Bidding

1. No Bidder shall submit more than one Bid for the Project. A Bidder bidding individually or as a member of a Consortium shall not be entitled to submit another bid either individually or as a member of any Consortium, as the case may be.

2. Unless the context otherwise requires, the terms not defined in this RFP, but defined in the Request for Qualification document for the Project (the "**RFQ**") shall have the meaning assigned thereto in the RFQ.

3. [The Feasibility Report of the Project is being provided (if any) only as a preliminary reference document by way of assistance to the Bidders who are expected to carry out their own surveys, investigations and other detailed examination of the Project before submitting their Bids. Nothing contained in the Feasibility Report shall be binding on the Railways nor confer any right on the Bidders, and the Railways shall have no liability whatsoever in relation to or arising out of any or all contents of the Feasibility Report.]

4. Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the draft PPA shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the PPA.

5. The Bid should be furnished in the format at Appendix–I, clearly indicating the bid amount in both figures and words, in Indian Rupees, and signed by the Bidder's authorized signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.

6. The Bid shall consist of tariff quoted in cost per kW hrs fixed for a period of 25 years.

7. The Bidder shall deposit a Bid Security of Rs. 50 lakhs (Rupees Fifty Lakhs) in accordance with the provisions of this RFP. The Bidder has the option to provide the Bid Security either as a Demand Draft or in the form of a Bank Guarantee acceptable to the Railways, as per format at Appendix–II.

8. The validity period of the Bank Guarantee shall not be less than 180 (One Hundred Eighty) days from the Bid Due Date, inclusive of a claim period of 60 (Sixty) days, and may be extended as may be mutually

agreed between the Railways and the Bidder. Where a demand draft is provided, its validity shall not be less than 80 (Eighty) days from the Bid Due Date, for the purposes of encashment by the Railways. The Bid shall be summarily rejected if it is not accompanied by the Bid Security. The Bid Security shall be refundable no later than 60 (Sixty) days from the Bid Due Date except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Power Purchase Agreement.

9. The Bidder should submit a Power of Attorney as per the format at Appendix–III, authorizing the signatory of the Bid to commit the Bidder.

10. In case the Bidder is a Consortium, the Members thereof should furnish a Power of Attorney in favour of the Lead Member in the format at Appendix–IV.

11. Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.

2.1.12 The Bid and all communications in relation to or concerning the Bidding Documents and the Bid shall be in English language.

2.1.13 The documents including this RFP and all attached documents, provided by the Railways are and shall remain or become the property of the Railways and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause 2.1.13 shall also apply *mutatis mutandis* to Bids and all other documents submitted by the Bidders, and the Railways will not return to the Bidders any Bid, document or any information provided along therewith.

2.1.14 A Bidder shall not have a conflict of interest (the "**Conflict of Interest**") that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Railways shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Railways and not by way of penalty for, *inter alia*, the time, cost and effort of the Railways, including consideration of such Bidder's proposal (the "**Damages**"), without prejudice to any other right or remedy that may be available to the Railways under the Bidding Documents and/ or the PPA or otherwise. Without limiting the generality of the above, a Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:

(i) the Bidder, its Member or Associate (or any constituent thereof) and any other Bidder, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of a Bidder, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 5% (five per cent) of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Member or Associate, is less than [5% (five per cent)] of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in sub-section (72) of section 2 of the Companies Act, 2013. For the purposes of this Clause 2.1.14, indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "**Subject Person**") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be

undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or

(ii) a constituent of such Bidder is also a constituent of another Bidder; or

(iii) such Bidder, its Member or any Associate thereof receives or has received any direct or indirect subsidy, grant, Agreemental loan or subordinated debt from any other Bidder, its Member or Associate, or has provided any such subsidy, grant, Agreemental loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or

(iv) Such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or

(v) such Bidder, or any Associate thereof, has a relationship with another Bidder, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each other's information about, or to influence the Bid of either or each other; or

(vi) Such Bidder or any Associate thereof has participated as a consultant to the Railways in the preparation of any documents, design or technical specifications of the Project.

Explanation:

In case a Bidder is a Consortium, then the term Bidder as used in this Clause 2.1.14, shall include each Member of such Consortium.

For purposes of this RFP, Associate means, in relation to the Bidder/ Consortium Member, a person who controls, is controlled by, or is under the common control with such Bidder/ Consortium Member (the "**Associate**"). As used in this definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than [50% (fifty per cent)]of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

2.1.15 A Bidder shall be liable for disqualification and forfeiture of Bid Security if any legal, financial or technical adviser of the Railways in relation to the Project is engaged by the Bidder, its Members or any Associate thereof, as the case may be, in any manner for matters related to or incidental to such Project during the Bidding Process or subsequent to the (i) issue of the LOA or (ii) execution of the PPA. In the event any such adviser is engaged by the Selected Bidder or SPD, as the case may be, after issue of the LOA or execution of the PPA for matters related or incidental to the Project, then notwithstanding anything to the contrary contained herein or in the LOA or the PPA and without prejudice to any other right or remedy of the Railways, including the forfeiture and appropriation of the Bid Security or Performance Security, as the case may be, which the Railways may have thereunder or otherwise, the LOA or the PPA, as the case may be, shall be liable to be terminated without the Railways being liable in any manner whatsoever to the Selected Bidder or SPD for the same. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated prior to the Application Due Date. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of the Project.

2.1.16 This RFP is not transferable.

2.1.17 Any award of Agreement pursuant to this RFP shall be subject to the terms of Bidding Documents.

2.2 Change in composition of the Consortium

2.2.1 Where the Bidder is a Consortium, change in composition of the Consortium may be permitted by the Railways during the Bid Stage, only where:

a. the Lead Member continues to be the Lead Member of the Consortium;

b. the substitute is at least equal, in terms of Technical Capacity or Financial Capacity, to the Consortium Member who is sought to be substituted and the modified Consortium shall continue to meet the pre-qualification and short-listing criteria for Applicants; and

c. The new Member(s) expressly adopt(s) the Application already made on behalf of the Consortium as if it were a party to it originally, and is not an Applicant/Member/ Associate of any other Consortium bidding for this Project.

2.2.2 Approval for change in the composition of a Consortium shall be at the sole discretion of the Railways and must be approved by the Railways in writing. The Bidder must submit its application for change in composition of the Consortium no later than 15 (fifteen) days prior to the Bid Due Date.

2.2.3 The modified/ reconstituted Consortium shall submit a revised Jt. Bidding Agreement as attached with RFQ and a Power of Attorney, substantially in the form at Appendix-IV, prior to the Bid Due Date.

2.2.4 The option of change in composition of the Consortium which is available under Clause 2.2.1 may be exercised by any Bidder who is either a Consortium or a single entity. In the case of a single entity Bidder adding a Consortium Member at the Bid Stage, the single entity Bidder shall be the Lead Member of the Consortium. Provided, however, that no member of such Consortium shall be a Bidder or the member of a Consortium which has been pre-qualified.

2.3 Change in Ownership

1. By submitting the Bid, the Bidder acknowledges that it was pre-qualified and short-listed on the basis of Technical Capacity and Financial Capacity of those of its Consortium Members who shall, until the 2nd (second) anniversary of the date of commercial operation of the Project, hold equity share capital representing not less than: (i) [26% (twenty six per cent)] of the subscribed and paid-up equity of the SPD; and (ii) [5% (five per cent) of the Total Project Cost specified in the PPA.]The Bidder further acknowledges and agrees that the aforesaid obligation shall be the minimum, and shall be in addition to such other obligations as may be contained in the PPA, and a breach hereof shall, notwithstanding anything to the contrary contained in the PPA, be deemed to be a breach of the PPA and dealt with as such there under. For the avoidance of doubt, the provisions of this Clause 2.3.1 shall apply only when the Bidder is a Consortium.

2.3.2 By submitting the Bid, the Bidder shall also be deemed to have acknowledged and agreed that in the event of a change in control of a Consortium Member or an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of short-listing and pre-qualification under and

in accordance with the RFQ, the Bidder shall be deemed to have knowledge of the same and shall be required to inform the Railways forthwith along with all relevant particulars about the sameand the Railways may, in its sole discretion, disqualify the Bidder or withdraw the LOA from the Selected Bidder, as the case may be. In the event such change in control occurs after signing of the PPA but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the PPA, be deemed to be a breach of the PPA, and the same shall be liable to be terminated without the Railways being liable in any manner whatsoever to the SPD. In such an event, notwithstanding anything to the contrary contained in the PPA, the Railways shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Railways under the Bidding Documents and/ or the PPA or otherwise.

2.4 Cost of Bidding

The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bidding Process. Railways will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

2.5 Site visit and verification of information

2.5.1 Bidders are encouraged to submit their respective Bids after visiting the Project site and ascertaining for themselves the site conditions, traffic, location, surroundings, climate, availability of power, water and other utilities for construction, access to site, handling and storage of materials, weather data, applicable laws and regulations, and any other matter considered relevant by them.

2.5.2 It shall be deemed that by submitting a Bid, the Bidder has:

(a) made a complete and careful examination of the Bidding Documents;

(b) received all relevant information requested from the Railways;

(c) accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Railways relating to any of the matters referred to in Clause 2.5.1 above;

(d) satisfied itself about all matters, things and information including matters referred to in Clause 2.5.1 herein above necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations there under;

(e) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 2.5.1 herein above shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Railways, or a ground for termination of the PPA by the SPD;

(f) acknowledged that it does not have a Conflict of Interest; and

(g) agreed to be bound by the undertakings provided by it under and in terms hereof.

2.5.3 The Railways shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFP, RFQ, the Bidding Documents or the Bidding Process, including any error or mistake therein or in any information or data given by the Railways.

2.6 Verification and Disqualification

2.6.1 The Railways reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFQ, the RFP or the Bidding Documents and the Bidder shall, when so required by the Railways, make available all such information, evidence and documents as may be necessary for such verification. Any such verification, or lack of such verification, by the Railways shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Railways thereunder.

2.6.2 The Railways reserves the right to reject any Bid and appropriate the Bid Security if:

a. at any time, a material misrepresentation is made or uncovered, or

b. the Bidder does not provide, within the time specified by the Railways, the supplemental information sought by the Railways for evaluation of the Bid.

Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium and each Member may be disqualified / rejected. If such disqualification / rejection occurs after the Bids have been opened and the Highest Bidder gets disqualified / rejected, then the Railways reserves the right to:

i. invite the remaining Bidders to submit their Bids in accordance with Clauses 3.3.3 and 3.3.4; or

(ii) take any such measure as may be deemed fit in the sole discretion of the Railways, including annulment of the Bidding Process.

2.6.3 In case it is found during the evaluation or at any time before signing of the PPA or after its execution and during the period of subsistence thereof, including the Agreement thereby granted by the Railways, that one or more of the pre-qualification conditions have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the SPD either by issue of the LOA or entering into of the PPA, and if the Selected Bidder has already been issued the LOA or has entered into the PPA, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Railways to the Selected Bidder or the SPD, as the case may be, without the Railways being liable in any manner whatsoever to the Selected Bidder or SPD. In such an event, the Railways shall be entitled to forfeit and appropriate Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Railways under the Bidding Documents and/ or the PPA, or otherwise.

B. DOCUMENTS

2.7 Contents of the RFP

2.7.1 This RFP comprises the Disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.9.

Invitation for Bids

Section 1. Introduction

Section 2. Instructions to Bidders

Section 3. Evaluation of Bids

Section 4. Fraud and Corrupt Practices

Section 5. Pre-Bid Conference

Section 6. Miscellaneous

Appendices

I. Letter comprising the Bid and Annexures

II. Bank Guarantee for Bid Security

III. Power of Attorney for signing of Bid

IV. Power of Attorney for Lead Member of Consortium

V. Guidelines of the Department of Disinvestment

VI. List of Project-Specific Provisions

2.7.2 The draft PPA [and the Feasibility Report, if any] provided by the Railways as part of the Bidding Documents shall be deemed to be part of this RFP.

2.8 Clarifications

2.8.1 Bidders requiring any clarification on the RFP may notify the Railways in writing by speed post/ courier/ special messenger and by e-mail. They should send in their queries on or before the date mentioned in the Schedule of Bidding Process specified in Clause 1.10. The Railways shall endeavour to respond to the queries within the period specified therein, but no later than 15 (fifteen) days prior to the Bid Due Date. The responses will be sent by e-mail. The Railways will forward all the queries and its responses thereto, to all Bidders without identifying the source of queries.

2. The Railways shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, the Railways reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Railways to respond to any question or to provide any clarification.

2.8.3 The Railways may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Railways shall be deemed to be part of the Bidding Documents. Verbal clarifications and information given by Railways or its employees or representatives shall not in any way or manner be binding on the Railways.

2.9 Amendment of RFP

2.9.1 At any time prior to the Bid Due Date, the Railways may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of Addenda.

2. Any Addendum issued hereunder will be in writing and shall be sent to all the Bidders.

3. In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Railways may, in its sole discretion, extend the Bid Due Date[s].

C. PREPARATION AND SUBMISSION OF BIDS

2.10 Format and Signing of Bid

2.10.1 The Bidder shall provide all the information sought under this RFP. The Railways will evaluate only those Bids that are received in the required formats and complete in all respects.

2.10.2 The Bid and its copy shall be typed or written in indelible ink and signed by the authorized signatory of the Bidder who shall also initial each page, in blue ink. In case of printed and published documents, only the cover shall be initialled. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialled by the person(s) signing the Bid.

2.11 Sealing and Marking of Bids

2.11.1 The Bidder shall submit the Bid in the format specified at Appendix-I, and seal it in an envelope and mark the envelope as "BID".

2.11.2 The documents accompanying the Bid shall be placed in a separate envelope and marked as "Enclosures of the Bid". The documents shall include:

(a) Bid Security in the format at Appendix–II;

(b) Power of Attorney for signing of Bid in the format at Appendix–III;

(c) If applicable, the Power of Attorney for Lead Member of Consortium in the format at Appendix–IV; and

(d) A copy of the PPA with each page initialled by the person signing the Bid in pursuance of the Power of Attorney referred to in Clause (b) hereinabove.

3. A true copy of the documents accompanying the Bid, as specified in Clause 2.11.2 above, shall be bound together in hard cover and the pages shall be numbered serially. Each page thereof shall be initialled in blue ink by the authorized signatory of the Bidder. This copy of the documents shall be placed in a separate envelope and marked "Copy of Documents".

4. The three envelopes specified in Clauses 2.11.1, 2.11.2 and 2.11.3 shall be placed in an outer envelope, which shall be sealed. Each of the four envelopes shall clearly bear the following identification:

"Bid for the "**Installation of grid connected roof-top solar photo voltaic Modules of 2.5 MWp Capacity system with the objective of generating and supplying to workshop installation through developer mode with power purchase agreement (PPA) at KANCHRAPARA Workshop, Eastern Railway"** and shall clearly indicate the name and address of the Bidder. In addition, the Bid Due Date should be indicated on the right hand top corner of each of the envelopes.

5. Each of the envelopes shall be addressed to:

ATTN. OF: Mr. Abhay Kumar Gupta

DESIGNATION Deputy Chief Electrical Engineer/P&D/KPA

ADDRESS: KANCHRAPARA RAILWAY WORKSHOP/ER,
KANCHRAPARA, NORTH 24 PARAGANAS
PIN-743145.

E-MAIL ADDRESS ***dyceeplanningkpa@gmail.com***

2.11.6 If the envelopes are not sealed and marked as instructed above, the Railways assumes no responsibility for the misplacement or premature opening of the contents of the Bid submitted and consequent losses, if any, suffered by the Bidder.

2.11.7 Bids submitted by fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

2.12 Bid Due Date

2.12.1 Bids should be submitted before 15:00 hours IST on the Bid Due Date at the address provided in Clause 2.11.5 in the manner and form as detailed in this RFP. A receipt thereof should be obtained from the person specified at Clause 2.11.5.

2.12.2 The Railways may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with Clause 2.9 uniformly for all Bidders.

2.13 Late Bids

Bids received by the Railways after the specified time on the Bid Due Date shall not be eligible for consideration and shall be summarily rejected.

2.14 Contents of the Bid

2.14.1 The Bid shall be furnished in the format at Appendix–I and shall consist of a [tariff] to be quoted by the Bidder. The Bidder shall specify (in Indian Rupees) the [tariff] to undertake the Project in accordance with this RFP and the provisions of the PPA.

2.14.2 Generally, the Project will be awarded to the Bidder quoting the lowest tariff.

2.14.3 The opening of Bids and acceptance thereof shall be substantially in accordance with this RFP.

2.14.4 The proposed PPA shall be deemed to be part of the Bid.

2.15 Modifications/ Substitution/ Withdrawal of Bids

2.15.1 The Bidder may modify, substitute or withdraw its Bid after submission, provided that written notice of the modification, substitution or withdrawal is received by the Railways prior to the Bid Due Date. No Bid shall be modified, substituted or withdrawn by the Bidder on or after the Bid Due Date.

2.15.2 The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.11, with the envelopes being additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.

2.15.3 Any alteration/ modification in the Bid or additional information supplied subsequent to the Bid Due Date, unless the same has been expressly sought for by the Railways, shall be disregarded.

2.16 Rejection of Bids

2.16.1 Notwithstanding anything contained in this RFP, the Railways reserves the right to reject any Bid and to annul the Bidding Process and reject all Bids at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefore. In the event that the Railways rejects or annuls all the Bids, it may, in its discretion**,** invite all eligible Bidders to submit fresh Bids hereunder.

2.16.2 The Railways reserves the right not to proceed with the Bidding Process at any time, without notice or liability, and to reject any Bid without assigning any reasons.

17. Validity of Bids

The Bids shall be valid for a period of not less than **120 (one hundred and twenty) days** from the Bid Due Date. The validity of Bids may be extended by mutual consent of the respective Bidders and the Railways.

2.18 Confidentiality

Information relating to the examination, clarification, evaluation and recommendation for the Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the Railways in relation to, or matters arising out of, or concerning the Bidding Process. The Railways will treat all information, submitted as part of the Bid, in confidence and will require all those who have access to such material to treat the same in confidence. The Railways may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Railways or as may be required by law or in connection with any legal process.

2.19 Correspondence with the Bidder

Save and except as provided in this RFP, the Railways shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

2.20 Bid Security

2.20.1 The Bidder shall furnish as part of its Bid, a Bid Security equal to Indian Rupees 50 Lakhs in the form of a bank guarantee issued by a nationalised bank, or a Scheduled Bank in India having a net worth of at least Rs. 1,000 crore (Rs. one thousand crore), in favour of the Railways in the format at Appendix–II (the "Bank Guarantee") and having a validity period of not less than 180 (one hundred eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Railways and the Bidder from time to time. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalised bank in India is required. For the avoidance of doubt, Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934.

2.20.2 Bid Security can also be in the form of a demand draft issued by a Scheduled Bank in India, drawn in favour of **FA&CAO/E. Rly./Kolkata and payable at Kolkata** (the "Demand Draft"). The Railways shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free.

2.20.3 Any Bid not accompanied by the Bid Security shall be summarily rejected by the Railways as non-responsive.

2.20.4 Save and except as provided in Clauses 1.2.4 and 1.2.5 above, the Bid Security of unsuccessful Bidders will be returned by the Railways, without any interest, as promptly as possible on acceptance of the Bid of the Selected Bidder or when the Bidding process is cancelled by the Railways, and in any case within 60 (sixty) days from the Bid Due Date. Where Bid Security has been paid by demand draft, the refund thereof shall be in the form of an account payee demand draft in favour of the unsuccessful Bidder(s). Bidders may by specific instructions in writing to the Railways give the name and address of the person in whose favour the said demand draft shall be drawn by the Railways for refund, failing which it shall be drawn in the name of the Bidder and shall be mailed to the address given on the Bid.

2.20.5 The Selected Bidder's Bid Security will be returned, without any interest, upon the SPD signing the PPA and furnishing the Performance Security in accordance with the provisions thereof. The Railways may, at the Selected Bidder's option, adjust the amount of Bid Security in the amount of Performance Security to be provided by him in accordance with the provisions of the PPA.

2.20.6 The Railways shall be entitled to forfeit and appropriate the Bid Security as Damages *inter alia* in any of the events specified in Clause 2.20.7 herein below. The Bidder, by submitting its Bid pursuant to this RFP, shall be deemed to have acknowledged and confirmed that the Railways will suffer loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the period of Bid validity as specified in this RFP. No relaxation of any kind on Bid Security shall be given to any Bidder.

2.20.7 The Bid Security shall be forfeited as Damages without prejudice to any other right or remedy that may be available to the Railways under the Bidding Documents and/ or under the PPA, or otherwise, if

(a) a Bidder submits a non-responsive Bid;

(b) a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 4 of this RFP;

(c) a Bidder withdraws its Bid during the period of Bid validity as specified in this RFP and as extended by mutual consent of the respective Bidder(s) and the Railways;

(d) the Selected Bidder fails within the specified time limit -

(i) to sign and return the duplicate copy of LOA; or

(ii) to sign the PPA; or

(iii) to furnish the Performance Security within the period prescribed therefor in the PPA.

(e) the Selected Bidder, having signed the PPA, commits any breach thereof prior to furnishing the Performance Security.

3. **EVALUATION OF BIDS**

3.1 Opening and Evaluation of Bids

3.1.1 The Railways shall open the Bids at 15:30 hours on the Bid Due Date, at the place specified in Clause 2.11.5 and in the presence of the Bidders who choose to attend.

3.1.2 The Railways will subsequently examine and evaluate the Bids in accordance with the provisions set out in this Section 3.

3.1.3 To facilitate evaluation of Bids, the Railways may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.

3.2 Tests of responsiveness

3.2.1 Prior to evaluation of Bids, the Railways shall determine whether each Bid is responsive to the requirements of this RFP. A Bid shall be considered responsive if:

(a) it is received as per the format at Appendix–I;

(b) it is received by the Bid Due Date including any extension thereof pursuant to Clause 2.12.2;

(c) it is signed, sealed, bound together in hard cover and marked as stipulated in Clauses 2.10 and 2.11;

(d) it is accompanied by the Bid Security as specified in Clause 2.1.7;

(e) it is accompanied by the Power(s) of Attorney as specified in Clauses 2.1.9 and 2.1.10, as the case may be;

(f) it contains all the information (complete in all respects) as requested in this RFP and/or Bidding Documents (in formats same as those specified);

(g) it does not contain any condition or qualification; and

(h) it is not non-responsive in terms hereof.

The Railways reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Railways in respect of such Bid. Provided, however, that the Railways may, in its discretion, allow the Bidder to rectify any infirmities or omissions if the same do not constitute a material modification of the Bid.

3.3 Selection of Bidder

3.3.1 Subject to the provisions of Clause 2.16.1, the Bidder whose Bid is adjudged as responsive in terms of Clause 3.2.1 and who quotes the [lowest bid in terms of solar electricity tariff in Rs./ kWh] shall ordinarily be declared as the selected Bidder (the "**Selected Bidder**"). In the event that the Railways rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

3.3.2 In the event that two or more Bidders quote the same amount of [Premium or Grant, as the case may be] (the "**Tie Bidders**"), the Railways shall identify the Selected Bidder by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders who choose to attend.

3.3.3 In the event that the Highest Bidder withdraws or is not selected for any reason in the first instance (the "**first round of bidding**"), the Railways shall annul the Bidding Process and invite fresh bids.

3.3.4 In the event that no Bidder offers to match the Lowest Bidder in the second round of bidding as specified in Clause 3.3.3, the Railways may, in its discretion, invite fresh Bids (the "**third round of bidding**") from all Bidders except the Lowest Bidder of the first round of bidding, or annul the Bidding Process, as the case may be. In case the Bidders are invited in the third round of bidding to revalidate or extend their Bid Security, as necessary, and offer fresh Bids, they shall be eligible for submission of fresh Bids provided, however, that in such third round of bidding only such Bids shall be eligible for consideration which are lower than the Bid of the second lowest Bidder in the first round of bidding.

3.3.5 After selection, a Letter of Award (the "**LOA**") shall be issued, in duplicate, by the Railways to the Selected Bidder and the Selected Bidder shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, the Railways may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as Damages on account of failure of the Selected Bidder to acknowledge the LOA, and the next eligible Bidder may be considered.

3.3.6 After acknowledgement of the LOA as aforesaid by the Selected Bidder, it shall cause the SPD to execute the PPA within the period prescribed in Clause 1.3. The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the PPA.

3.3.7 Central Financial Assistance - Special Conditions

MNRE conveyed maximum CFA of 15% of the Total Project cost or MNRE benchmark cost of Rs 8 crore per MW whichever is lower, for installation of grid connected rooftop projects at various locations of Railways. The CFA will be disbursed as per the guidelines of MNRE.

If the project fails to generate any power continuously for any 1 year within the 25 years or its major assets (components) are sold or the project is dismantled during this tenure, Railways will have a right to get refund of CFA on pro-rata basis and if not paid by the Project Developer, then a claim on assets equal to the value of CFA released, *on pro-rata basis as specified hereunder*:

Year of default (From **COD**)	Railways right to refund of CFA/ Claim on assets (% of CFA paid)
Up to 5 yrs	100%
5-6 year	90%

6-7 year	80%
7-8 year	70%
8-9 year	60%
9-10 year	50%
10-11 year	40%
11-12 year	30%
12-13 year	25%
13-14 year	23%
14-15 year	21%
15-16 year	19%
16-17 year	17%
17-18 year	15%
18-19 year	13%
19-20 year	11%
20-21 year	9%
21-22 year	7%
22-23 year	5%
23-24 year	3%
24-25 year	1%

If the Project is transferred or sold to a third party during its tenure after initial lock-in period of 1 year Railway will retain full rights to operationalize the PPA with the third party, which will be under full obligation to honour all the obligations and terms & conditions of the PPA.

3.3.8. Others

Bidder has to obtain all the necessary approvals/Consents/Clearances required for Erection, Testing, Commissioning and O&M of the project including Grid connectivity.

3.3.9.Bid Security and Processing fee submission:

Bid Security shall be submitted in a separate envelop (along with Processing fee) superscripted with name of sites for which Bid is being quoted & other details.

3.3.10. Tax Exemptions

Price bids are invited inclusive of Taxes and duties. However, Tax exemptions including certificates of any sort, if available may be dealt with the concerned Dep't of Govt. of India by the bidder. Railways in no case will be responsible for providing any tax exemptions to the bidder.

3.3.11. Eligibility of Stand-Alone systems

Standalone system is not allowed under this scheme. The system should be grid interactive.

3.3.12. Requirement for approval on makes of equipment

The modules should be manufactured in India only. Rest of the components can be procured from any source. However these items should meet the Technical specification and standards mentioned in RFP/PPA.

3.3.13. Deductions

All costs, damages or expenses which Railways may have paid or incurred, which under the provisions of the Contract, the Successful bidder is liable/will be liable, will be claimed by the Railways. All such claims shall be billed by the Railways to the and if not paid by the Successful bidder within the 15 days within respect of payment request period, the Railways may, then, deduct the amount from any moneys due i.e., Performance Security or becoming due to the contractor or Successful bidder under the contract or may be recovered by actions of law or otherwise, if the Successful bidder fails to satisfy the Railways of such claims

3.4 Contacts during Bid Evaluation

Bids shall be deemed to be under consideration immediately after they are opened and until such time the Railways makes official intimation of award/ rejection to the Bidders. While the Bids are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain, save and except as required under the Bidding Documents, from contacting by any means, the Railways and/ or their employees/ representatives on matters related to the Bids under consideration.

3.5 Bid Parameter

3.5.1 The Bid shall comprise a tariff to be quoted by the Bidder in accordance with the provisions of the PPA. The Bidder who offers the lowest tariff shall ordinarily be the Selected Bidder.

4. FRAUD AND CORRUPT PRACTICES

4.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LOA and during the subsistence of the PPA. Notwithstanding anything to the contrary contained herein, or in the LOA or the PPA, the Railways may reject a Bid, withdraw the LOA, or terminate the PPA, as the case may be,

without being liable in any manner whatsoever to the Bidder or SPD, as the case may be, if it determines that the Bidder or SPD, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, the Railways shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Railways under the Bidding Documents and/ or the PPA, or otherwise.

4.2 Without prejudice to the rights of the Railways under Clause 4.1 hereinabove and the rights and remedies which the Railways may have under the LOA or the PPA, or otherwise if a Bidder or SPD, as the case may be, is found by the Railways to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOA or the execution of the PPA, such Bidder or Solar Project Developer/ SPD shall not be eligible to participate in any tender or RFP issued by the Railways during a period of 2 (two) years from the date such Bidder or SPD, as the case may be, is found by the Railways to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.

4.3 For the purposes of this Clause 4, the following terms shall have the meaning hereinafter respectively assigned to them:

(a) "**corrupt practice**" means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Railways who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOA or has dealt with matters concerning the PPA or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Railways, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under the Clause 2.1.15 of this RFP, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the PPA, as the case may be, any person in respect of any matter relating to the Project or the LOA or the PPA, who at any time has been or is a legal, financial or technical adviser of the Railways in relation to any matter concerning the Project;

(b) "**fraudulent practice**" means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;

(c) "**coercive practice**" means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Bidding Process;

(d) "**undesirable practice**" means (i) establishing contact with any person connected with or employed or engaged by the Railways with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and

(e) "**restrictive practice**" means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

4.4. Debarred from participating in Railways' roof top tender

Railways reserves the right to carry out the performance review of each Bidder from the time of submission of Bid onwards. In case it is observed that a bidder has not fulfilled its obligations in meeting the various timelines envisaged, in addition to the other provisions of the RFP, such Bidders may be debarred from participating in Railways' any future tender for a period as decided by the competent Railways of Railways.

The Successful bidder must ensure that the CFA is available for newly commissioned projects i.e. for the projects whose construction/dispatch of equipment's have been started only after the issue of LoA. Any project on which projects has been installed or commissioned before the issue of LoA shall be construed as fraudulent activity in which case Successful bidder(s) may be debarred from participating in Railways' future tender for a period as decided by the Competent authority.

5. PRE-BID CONFERENCE

5.1 No Pre-Bid Conference will be held.

6. MISCELLANEOUS

6.1 The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts in the State in which the Railways has its headquarters shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.

6.2 The Railways, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;

(a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;

(b) consult with any Bidder in order to receive clarification or further information;

(c) retain any information and/ or evidence submitted to the Railways by, on behalf of, and/ or in relation to any Bidder; and/ or

(d) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.

6.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Railways, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection with the Bidding Process and waives, to the fullest extent permitted by applicable laws, any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.

6.4 The Bidding Documents and RFQ are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this RFP, in the event of any conflict between them the priority shall be in the following order:

(a) the Bidding Documents;

(b) the RFQ. i.e. the Bidding Documents at (a) above shall prevail over the RFQ at (b) above.

Appendices

APPENDIX I

Letter Comprising the Bid

Tender No: EPD/W/CON/PPP/Solar Plant/RFP /2022-23, **Dated:- 08.09.2022**

From:

_____(Insert name and address of Bidding Company)

_____

_____

Tel.:-……

Fax :-……..

E-mail address:- .....

To,

Office of the
Dy. Chief Electrical Engineer/P&D,
Kanchrapara Railway Workshop,
Eastern Railway,
Kanchrapara-743145
Email: dyceeplanningkpa@gmail.com

Sub:-" Installation of grid connected roof-top solar photo voltaic Modules of 2.5 MWp Capacity system with the objective of generating and supplying to workshop installation through developer mode with power purchase agreement (PPA) at KANCHRAPARA Workshop, Eastern Railway."

Dear Sir,

We, the undersigned….[insert name of the 'Bidder'] having read, examined and understood in detail the RFP Document for Tender No. EPD/W/CON/PPP/Solar Plant/RFP /2022-23 **Dtd. 08.09.2022 "Installation of grid connected roof-top solar photo voltaic Modules of 2.5 MWp Capacity system with the objective of generating and supplying to workshop installation through developer mode with power purchase agreement (PPA) at KANCHRAPARA Workshop, Eastern Railway.**"in India hereby submit our Bid comprising of Price Bid. We confirm that neither we nor any of our Associate has submitted Bid other than this Bid directly or indirectly in response to the aforesaid RFP.

1 We give our unconditional acceptance to the tender dated **08.09.2022** and RFP Documents attached thereto, issued by Railways, as amended. As a token of our acceptance to the RFP Documents, the same have been initiated by us and enclosed to the Bid. We shall ensure that we execute such RFP Documents as per the provisions of the RFP and provisions of such RFP Documents shall be binding on us.

2. I/ We acknowledge that the Railways will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the SPD for the aforesaid Project, and we certify that all information provided therein is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are true copies of their respective originals.

3. This statement is made for the express purpose of our selection as SPD for the [development, finance, construction, operation and maintenance] of the aforesaid Project.

4. I/ We shall make available to the Railways any additional information it may find necessary or require to supplement or authenticate the Bid.

5. I/ We acknowledge the right of the Railways to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.

6. I/ We certify that in the last three years, we/ any of the Consortium Members[ε] or our/ their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.

7. I/ We declare that:

   (a) I/ We have examined and have no reservations to the Bidding Documents, including any Addendum issued by the Railways; and

   (b) I/ We do not have any conflict of interest in accordance with Clauses 2.1.14 and 2.1.15 of the RFP document; and

   (c) I/ We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFP document, in respect of any tender or request for proposals issued by or any agreement entered into with the Railways or any other public sector enterprise or any government, Central or State; and

   (d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of the RFP, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice; and

   (e) the undertakings given by us along with the Application in response to the RFQ for the Project were true and correct as on the date of making the Application and are also true and correct as on the Bid Due Date and I/we shall continue to abide by them.

8. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with Clause 2.16 of the RFP document.

9. I/ We believe that we/ our Consortium satisfy(s) the financial criteria and meet(s) the requirements as specified in the RFQ document.

10. I/ We declare that we/ any Member of the Consortium, or our/ its Associates are not a Member of a/ any other Consortium submitting a Bid for the Project.

11. I/ We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.

12. I/ We further certify that in regard to matters relating to security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.

13. I/ We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our directors/ managers/ employees.[6]

14. I/ We further certify that we are not disqualified in terms of the additional criteria specified by the Department of Disinvestment in their OM No. 6/4/2001-DD-II dated July 13, 2001, a copy of which forms part of the RFP at Appendix-V thereof.

15. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate the Railways of the same immediately.

16. I/ We acknowledge and undertake that our Consortium was pre-qualified and short-listed on the basis of Technical Capacity and Financial Capacity of those of its Members who shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid-up equity of the SPD; and (ii) 5% (five per cent) of the Total Project Cost specified in the PPA. We further agree and acknowledge that the aforesaid obligation shall be in addition to the obligations contained in the PPA in respect of Change in Ownership.

17. I/ We acknowledge and agree that in the event of a change in control of an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of short-listing and pre-qualification under and in accordance with the RFQ, I/We shall inform the Railways forthwith along with all relevant particulars and the Railways may, in its sole discretion, disqualify our Consortium or withdraw the Letter of Award, as the case may be. I/We further acknowledge and agree that in the event such change in control occurs after signing of the PPA but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the PPA shall be liable to be terminated without the Railways being liable to us in any manner whatsoever.

18. I/ We understand that the Selected Bidder shall either be an existing Company incorporated under the Indian Companies Act, 1956/ 2013, or shall incorporate as such prior to execution of the PPA.

19. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Railways in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.

20. In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into a PPA in accordance with the draft that has been provided to me/us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.

21. I/ We have studied all the Bidding Documents carefully and also surveyed the [project highway and the traffic]. We understand that except to the extent as expressly set forth in the PPA, we shall have no claim, right or title arising out of any documents or information provided to us by the Railways or in respect of any matter arising out of or relating to the Bidding Process including the award of Agreement.

22. I/ We offer a Bid Security of **Rs 50, 00,000/-. (Rupees Fifty Lakhs only)** to the Railways in accordance with the RFP Document.

23. The Bid Security in the form of a Demand Draft/ Bank Guarantee (strike out whichever is not applicable) is attached.

24. The documents accompanying the Bid, as specified in Clause 2.11.2 of the RFP, have been submitted in a separate envelope and marked as "Enclosures of the Bid".

25. I/ We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I/we shall have any claim or right of whatsoever nature if the Project / Agreement is not awarded to me/us or our Bid is not opened or rejected.

26. The [Premium / Grant] has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, draft PPA, our own estimates of costs [and traffic] and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the Project.

27. I/ We agree and undertake to abide by all the terms and conditions of the RFP document.

28. {We, the Consortium Members agree and undertake to be jointly and severally liable for all the obligations of the SPD under the PPA till occurrence of Financial Close in accordance with the PPA.}

29. I/ We shall keep this offer valid for 120 (one hundred and twenty) days from the Bid Due Date specified in the RFP.

30. I/ We hereby submit the following Bid for undertaking the aforesaid Project in accordance with the Bidding Documents and the PPA:[5]

Tariff (KWH) for the proposed solar rooftop contracted capacity -

In witness thereof, I/we submit this Bid under and in accordance with the terms of the RFP document.

Yours faithfully,

Date: (Signature, name and designation of the Authorized signatory)

Place: Name and seal of Bidder/Lead Member

ANNEX-I
Format for Information by Bidders

Appendix I
Annex-I

Tender No: EPD/W/CON/PPP/Solar Plant/RFP /2022-23 Dated:- 08.09.2022

S.No	Description	Name of the Sites	Approx. total Capacity in MWp	Total project cost excluding O&M for the scope of work as per Bid document (Rs./ MWp)
1	**"Installation of grid connected roof-top solar photo voltaic Modules of 2.5 MWp Capacity system with the objective of generating and supplying to workshop installation through developer mode with power purchase agreement (PPA) at KANCHRAPARA Workshop, Eastern Railway."**	1. **29 B App** 2. **Shop 29 Main Shop Low** 3. **Shop 29 Main Shop High** 4. **HLR Store Ward** 5. **Shop 20** 6. **Shop 18/25**	2.5 MWp	

Date: ……
Place: .....
Business Address:

Signature :.....
Printed Name :.....
Designation :.....

Country of Incorporation:
(Common Seal).....
(State or Province to be indicated)

ANNEX-II
Format for Information by Bidders

Appendix I
Annex-II

(To be submitted as part of Price Bid)

Tender No: EPD/W/CON/PPP/Solar Plant/RFP /2022-23, Dt.08.09.2022

Tariff (Rs/kWh) at Minimum CUF [considering CFA as per its definition]	**Guaranteed generation/Minimum CUF**
1	2
	16% or Normative CUF notified in the respective states by SERC

In words, Rupees _____ per kWh.

Date: - …….
Signature:-……
Name:-……..
Place:-…….
Address:-
Company Seal

Covering Letter
(The covering letter should be on the Letter Head of the Bidding Company)

ANNEX-III
General particulars of the Bidder

Appendix I

Annex-III

GENERAL PARTICULARS OF THE BIDDER

Name of the Company	
Registered Office Address	
Telephone, Telex, Fax No	
E-mail	
Web site	
Authorized Contact Person(s) with name, designation Address and Mobile Phone No., E-mail address/ Fax No. to whom all references shall be made	
Year of Incorporation	
Have the bidder/Company ever been Debarred By any Govt. Dept. / Undertaking for undertaking any work.	
Reference of any document information attached by the Bidder other than specified in the RFP.	
Whether the Bidder wishes to form a Project Company for execution of work	Yes / No
Bidding company is listed in India	Yes / No
Details of the Ownership structure (Details of persons owning 10% or more of the Total Paid up equity of the Bidding Company in the Format as Below	

Annex V
Conditions of contract

Appendix I
Annex-VI

Please refer the Power Purchase Agreement attached with the RFP.

APPENDIX- II

Bank Guarantee for Bid Security

(Refer Clauses 2.1.7 and 2.20.1)

B.G. No. Dated:

1. In consideration of you, ……..……, having its office at ……, (hereinafter referred to as the "Railways", which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Bid of …… (a company registered under the Companies Act, 1956/ 2013) and having its registered office at …… (and acting on behalf of its Consortium) (hereinafter referred to as the "Bidder" which expression shall unless it be repugnant to the subject or context thereof include its/their executors, administrators, successors and assigns), for the …….. Project on [DBFOT] basis (hereinafter referred to as "the Project") pursuant to the RFP Document dated …… issued in respect of the Project and other related documents including without limitation the draft PPA (hereinafter collectively referred to as "Bidding Documents"), we (Name of the Bank) having our registered office at …… and one of its branches at …….. (hereinafter referred to as the "Bank"), at the request of the Bidder, do hereby in terms of Clause 2.1.7 read with Clause 2.1.8 of the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the Bidding Documents (including the RFP Document) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Railways an amount of Rs. ……. (Rupees …….. only) (hereinafter referred to as the "Guarantee") as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfil or comply with all or any of the terms and conditions contained in the said Bidding Documents.

2. Any such written demand made by the Railways stating that the Bidder is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.

3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of the Railways is disputed by the Bidder or not, merely on the first demand from the Railways stating that the amount claimed is due to the Railways by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the Bidding Documents including failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. …… (Rupees ……. only).

4. This Guarantee shall be irrevocable and remain in full force for a period of 180 (one hundred and eighty) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days or for such extended

period as may be mutually agreed between the Railways and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.

5. We, the Bank, further agree that the Railways shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents including, *inter alia*, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Documents, and the decision of the Railways that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Railways and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other authority.

6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.

7. In order to give full effect to this Guarantee, the Railways shall be entitled to treat the Bank as the principal debtor. The Railways shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to the Railways, and the Bank shall not be released from its liability under these presents by any exercise by the Railways of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Railways or any indulgence by the Railways to the said Bidder or by any change in the constitution of the Railways or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.

8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.

9. We undertake to make the payment on receipt of your notice of claim on us addressed to [name of Bank along with branch address] and delivered at our above branch which shall be deemed to have been duly authorised to receive the said notice of claim.

10. It shall not be necessary for the Railways to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Railways may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.

11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Railways in writing.

12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.

13. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. …… crore (Rupees ……..... crore only). The Bank shall be liable to pay the said amount or any part thereof only if the Railways serves a written claim on the Bank in accordance with paragraph 9 hereof, on or before [……. (indicate date falling 180 days after the Bid Due Date)].

Signed and Delivered by ……. Bank

By the hand of Mr./Ms …….., its …….. andauthorised official.

(Signature of the Authorised Signatory)

(Official Seal)

Annex-I of Appendix-II

CHECK LIST FOR BANK GUARANTEES

Sl.No.	Details of checks	YES/NO.
a)	Is the BG on non-judicial Stamp paper of appropriate value, as per applicable Stamp Act of the place of execution	
b)	Whether date, purpose of purchase of stamp paper and name of the purchaser are indicated on the back of Stamp paper under the Signature of Stamp vendor? (The date of purchase of stamp paper should be not later than the date of execution of BG and the stamp paper should be purchased either in the name of the executing Bank or the party on whose behalf the BG has been issued. Also the Stamp Paper should not be older than six months from the date of execution of BG).	
c)	Has the executing Officer of BG indicated his name, designation and Power of Attorney No./Signing Power no. on the BG?	
d)	Is each page of BG duly signed / initialed by executants and whether stamp of Bank is affixed thereon? Whether the last page is signed with full particulars including two witnesses under seal of Bank as required in the prescribed Performa?	
e)	Does the Bank Guarantees compare verbatim with the Performa prescribed in the Bid Documents?	
f)	Are the factual details such as Bid Document No. / Specification No., / LOI No. (if applicable) / Amount of BG and Validity of BG correctly mentioned in the BG	
i)	Whether overwriting/cutting if any on the BG have been properly Authenticated under signature & seal of executants?	

Appendix–III

Power of Attorney for signing of Bid[s]
(Refer Clause 2.1.9)

Know all men by these presents, We, …… (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr. / Ms (Name), son/daughter/wife of …… and presently residing at ……..., who is presently employed with us/ the Lead Member of our Consortium and holding the position of ……..., as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our bid for the …… Project proposed or being developed by the …… (the "Railways") including but not limited to signing and submission of all applications, bids and other documents and writings, participate in bidders' and other conferences and providing information / responses to the Railways, representing us in all matters before the Railways, signing and execution of all contracts including the PPA and undertakings consequent to acceptance of our bid, and generally dealing with the Railways in all matters in connection with or relating to or arising out of our bid for the said Project and/or upon award thereof to us and/or till the entering into of the PPA with the Railways.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE, ……..., THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS …… DAY OF ……..., 20…..

For……..

(Signature, name, designation and address)

Witnesses:

1.

2.

Accepted Notarised

(Signature, name, designation and address
of the Attorney)

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*

- *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*

- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.*

APPENDIX–IV[s]

Power of Attorney for Lead Member of Consortium
(Refer Clause 2.1.10)

Whereas the ……. (the "Railways") has invited bids from pre-qualified and short-listed parties for the ……..... Project(the "Project").

Whereas, …….., ……..and ……. (collectively the "Consortium") being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposals and other connected documents in respect of the Project, and

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium's bid for the Project and its execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We, …… having our registered office at ……, M/s. ……, having our registered office at ……, and M/s. ……, having our registered office at ……, (hereinafter collectively referred to as the "Principals") do hereby irrevocablydesignate, nominate, constitute, appoint and authorise M/s ……, having its registered office at ……, being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the "Attorney") and hereby irrevocably authorise the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the Agreement/ Contract, during the execution of the Project, and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of its bid for the Project, including but not limited to signing and submission of all applications, bids and other documents and writings, accept the Letter of Award, participate in bidders' and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent toacceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with the Railways, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium's bid for the Project and/ or upon award thereof till the PPA is entered into with the Railways.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS …… DAY OF …….., 20.…

Appendix - IV

For ……...

(Signature, Name & Title)

.

For …….....

(Signature, Name & Title)

For ……

(Signature, Name & Title)

(Executants)

(To be executed by all the Members of the Consortium)

Witnesses:

1.

2.

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued.However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.*

APPENDIX –V

Guidelines of the Department of Disinvestment
Letter no. Dated 13 July 2001
Please refer Appendix-V in RFQ

APPENDIX-VI

List of Project-specific provisions

A. Clauses with serially numbered Footnotes (Fn)

1. Letter of Invitation (Fn. 1)
2. Clause 1.1 (Fn. 2)
3. Clause 1.9 (Fn. 3) (Fn. 4)
4. Clause 3.3 (Fn. 5)

***Note**: The Clauses to which these Footnotes relate also include square parenthesis or asterisks which may be addressed simultaneously. Such square parenthesis or asterisks have not been listed in (B) or (C) below.

*Model Power Purchase Agreement (MPPA) for Rooftop Solar Projects on Indian Railways

Ministry of Railways, Government of India

*Model
Power Purchase Agreement (PPA)
For Rooftop Solar Projects on
Indian Railways

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Preliminary

POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT is entered into on this the ** day of ***, 20**

BETWEEN

1 ******* Railway, a part of Indian Railway (hereinafter referred to as "Railways"), having its office at ******* (which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns)

AND

2 *******, a company incorporated under the provisions of Companies Act, 2013 having its registered Office at [●], India (hereinafter referred to as "**Solar Power Developer**" or "**SPD**"), which expression shall, unless repugnant to the context or meaning thereof, include its successors include its successors, permitted assigns and substitutes) of the Other Part[$],

Railways and the Solar Power Developer shall be referred to in this Agreement collectively as Parties and individually as Party

WHEREAS:

A. Railways had resolved to execute rooftop solar generation project of ****** kWp capacity including operation and maintenance (O&M) of the system(s) for a period of 25 years after commissioning of project, on Design, Build, Finance, Operate and Transfer (DBFOT) basis, located on rooftops of Railways installation in accordance with the terms and conditions to be set forth in a power purchase agreement to be entered into.

B. Railways had accordingly invited proposals in a two stage bidding process. In the first stage, through [tender notice/ Request for Qualification No. *** dated ***] applicants were shortlisted for the next stage to execute the rooftop solar generation project including operation and maintenance (O&M) of the system(s) for a period of 25 years after commissioning of project, on design, build, finance, operate and transfer (DBFOT) basis. In the second stage, the shortlisted applicants were shortlisted for providing bids in the second stage of the selection process.

C. Railways had prescribed the technical and commercial terms and conditions, and invited application in the "**Request for Qualification**". In "**Request for Proposal**" the tariff proposal is invited from the shortlisted bidders from the **Request for Qualification** stage for undertaking the Project.

D. After evaluation of the bids received, Railways had accepted the Bid of the {selected bidder/Consortium} and issued its Letter of Award No. …….. dated ……. (hereinafter called the "**LOA**" or "**Letter of Award**") to the {selected bidder/ Consortium} requiring, *inter alia*, the execution of this Power Purchase Agreement within [30 (thirty)] days of the date of issue thereof.

E. {The selected bidder/ Consortium has since promoted and incorporated the **SPD** as a limited liability company under the Companies Act 2013, and has requested Railways to accept the **SPD** as the entity which shall undertake and perform the obligations and exercise the rights of the selected bidder/ Consortium under the LOA,} including the obligation to enter into this Power Purchase Agreement pursuant to the LOA for executing the Project.

F. {By its letter dated ……., the **SPD** has also joined in the said request of the selected

bidder/ Consortium to Railways to accept it as the entity which shall undertake and perform the obligations and exercise the rights of the selected bidder/ Consortium including the obligation to enter into this Power Purchase Agreement pursuant to the LOA. The SPD has further represented to the effect that it has been promoted by the selected bidder/ Consortium for the purposes hereof}.

G. Railways has agreed to the said request of the {selected bidder/ Consortium and the} SPD, and has accordingly agreed to enter into this Power Purchase Agreement with the SPD for execution of the Project on DBFOT basis, subject to and on the terms and conditions set forth hereinafter.

Now, therefore, in consideration of the foregoing and the respective covenants and agreements set forth in this Power Purchase Agreement, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follow.[1]

[1*] Serially numbered footnotes in this Model Power Purchase Agreement are for guidance of Railways and should be omitted from the draft Power Purchase Agreement forming part of Bid Documents. Footnotes marked "$"or in other non-numerical characters shall be retained in the draft Power Purchase Agreement.

[†] All project-specific provisions in this Model Power Purchase Agreement have been enclosed in square parenthesis and may be modified, as necessary, before issuing the draft Power Purchase Agreement forming part of Bid Documents.

[$] The provisions in curly parenthesis and the blank spaces shall be retained in the draft Power Purchase Agreement and shall be suitably modified/ filled after completion of the bid process to reflect the particulars relating to the selected bidder.

ARTICLE 1

DEFINITIONS AND INTERPRETATION

1.1 Definitions

The words and expressions beginning with capital letters or defined in this Agreement shall, unless the context otherwise requires, have the meaning ascribed thereto herein, and the words and expressions defined in the Schedules and used therein shall have the meaning ascribed thereto in the Schedules.

a) "**Accounting Year**" means the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year;

b) "**Affected Party**" has the meaning given to it in Article 35.

c) "**Agreement**" means this Power Purchase Agreement or PPA executed hereof, including the schedules, amendments, modifications and supplements made in writing by the Parties from time to time;

d) "**Agreement Period**" means the period starting on and from the Appointed Date and ending on the Transfer Date;

e) "**Appendix**" shall have the meaning set forth in Clause 10.3.1;

f) "**Applicable Laws**" means, with respect to any Person, any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, guideline, Governmental Approval, consent or requirement of any Governmental Authority in India having jurisdiction over such Person or its property, enforceable by law or in equity, including the interpretation and administration thereof by such Governmental Authority;

g) "**Appointed Date**" means the date on which Financial Close is achieved or an earlier date that the Parties may by mutual consent determine, and shall be deemed to be the date of commencement of the Agreement period. For the avoidance of doubt, every Condition Precedent shall have been satisfied or waived prior to the Appointed Date and in the event all Conditions Precedent are not satisfied or waived, as the case may be, the Appointed Date shall be deemed to occur only when each and every Condition Precedent is either satisfied or waived, as the case may be.

h) "**Approvals**" means all permits, clearances, licenses, consents, authorizations, approvals, registrations, waivers, privileges, acknowledgements, agreements, or Agreements required to be obtained from or provided by any concerned authority for the purpose of setting up of the solar power project and/ or for supply of power pursuant to this Agreement;

i) "**Approved Valuer**" means a firm of valuers recognized as such by the Income Tax Department and having experience of valuing at least 5 (five) properties exceeding Rs. 100 cr. (Rupees one hundred crore) each in value;

j) "**Arbitration Act**" means the Arbitration and Conciliation Act, 1996 and shall include modifications to or any re-enactment thereof, as in force from time to time;

k) "**Assignment**" has the meaning set forth in Article 29;

l) "**Associate**" means in relation to either party, a person who controls, is controlled

by, or is under the common control with such Party (as used in this definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (Fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person, whether by operation of law or by contract or otherwise;

m) "**Award**" has the meaning set forth in Article 33;

n) "**Bank**" means a bank incorporated in India and having a minimum net worth of Rs. 1,000 crore (Rupees one thousand crore) or any other bank acceptable to Senior Lenders, but does not include a bank in which any Senior Lender has an interest;

o) "**Bank Rate**" means the rate of interest specified by the Reserve Bank of India from time to time in pursuance of section 49 of the Reserve Bank of India Act, 1934 or any replacement of such Bank Rate for the time being in effect;

p) "**Backup Meter**" means the meter installed, operated and maintained by the Solar Power Developer as per the provisions laid in the section 10 metering which shall be connected to the same core of the current transformer (CT) and Potential Transformer (PT) to which the Main Meter is connected and shall be used for accounting and billing of electricity in case of failure/repair/maintenance of Main Meter;

q) "**Billing Period**" means the calendar month ending with the Metering Date. The first Billing Period shall commence from the First Commissioning Date and end with the Metering Date corresponding to the month in which the First Commissioning occurs; for additional details refer Article 23 – Tariff and payment

r) "**Billing Date**" means the first Business Day after the Metering Date of each Billing Period refer Article 23;

s) "**Business Day**" means any day other than Saturday or Sunday or any other day on which banks in (Delhi) are required or authorized by Applicable Law to be closed for business;

t) "**Buyback Date**" means the date on which title to the System transfers to Railways pursuant to Railways exercising its purchase option under Article 28 &Schedule M

u) "**Capacity Utilization Factor**" (CUF) shall mean the ratio of actual energy generated by SPV project over the year to the equivalent energy output at its Installed Capacity over the yearly period. CUF=Actual annual energy generated from the plant in Kwh/(Installed Capacity in KW*365*24)

v) "**Central Financial Assistance (CFA)**" means the financial assistance to the eligible projects as per applicable MNRE Guidelines. CFA will be available to the successful bidder as per MNRE guidelines and would be calculated as [15%] of either the MNRE benchmark cost or the total project cost, whichever is lower.

w) "**Commercial Operation**" with respect to a Unit or the Facility, as the case may be, shall refer to the period after the Commercial Operation Date of such Unit or Facility;

x) "**Commissioned**" means, in respect of a Unit or the Facility, as the case may be, passing of the Commissioning Test by the Units, as certified by the Railways or its representative(s) and interconnection of the Unit with the Distribution Grid for

receiving the Delivered Energy and "Commission" and "Commissioning" shall be construed accordingly;

y) "**Change in Law**" means the occurrence of any of the following after the date of Bid:

(a) the enactment of any new Indian law as applicable to the State;

(b) the repeal, modification or re-enactment of any existing Indian law;

(c) the commencement of any Indian law which has not entered into effect until the date of Bid;

(d) a change in the interpretation or application of any Indian law by a judgement of a court of record which has become final, conclusive and binding, as compared to such interpretation or application by a court of record prior to the date of Bid; or

(e) any change in the rates of any of the Taxes that have a direct effect on the Project;

z) "**Change in Ownership**" means a transfer of the direct and/or indirect legal or beneficial ownership of any shares, or securities convertible into shares, that causes the aggregate holding of the {selected bidder/Associate}, together with {its/their} Associates in the total Equity to decline below (i) 51% (fifty one per cent) thereof during Construction Period, (ii) 33% (thirty three per cent) thereof during a period of 3 (three) years following COD, and (iii) 26% (twenty six per cent) thereof, or such lower proportion as may be permitted by Railways during the remaining Agreement Period; provided that any material variation (as compared to the representations made by the SPD during the bidding process for the purposes of meeting the minimum conditions of eligibility or for evaluation of its application or Bid, as the case may be,) in the proportion of the equity holding of {the selected bidder/ any Consortium Member} to the total Equity, if it occurs prior to COD, shall constitute Change in Ownership;

aa) "**Commissioning Tests**" means the tests to be carried out to determine the Commissioning of the Unit or Facility, as the case may be, in accordance with the Testing Procedures specified and as defined in this agreement;

bb) "**Completion Certificate**" shall have the meaning set forth in Article 14;

cc) "**Conditions Precedent**" shall have the meaning set forth in Article 4

dd) "**Consortium**" shall have the meaning set forth in Recital (C);}

ee) {"**Consortium Member**" means a company specified in Recital (C) as a member of the Consortium;}

ff) "**Construction Default**" means failure to achieve Commercial Operation by the Scheduled Commercial Operation Date or failure to commence construction of the Project within 09 (nine) months following the Appointed Date of this Agreement);

gg) "**Construction Period**" means the period from Appointed Date till date the project got commissioned.

hh) "**Construction Works**" means all works and things necessary to complete the

Project in accordance with this Agreement;

ii) "**Contracted Capacity**" shall mean ……[Insert capacity] kWp contracted with Railways for supply by the Solar Power Developer to the Railways at the Delivery Point from the rooftop solar generation project

jj) "**Contract Year**" means, with respect to the first contract year, the period beginning on the Commercial Operation Date of the Facility and ending at 00.00 hours at midnight on 31st March of that Fiscal Year. Each successive contract year shall coincide with the succeeding Fiscal Year, except that the final contract year shall end on the date of expiry of the Term or on Termination of this Agreement, whichever is earlier;

kk) "**Contractor**" means the person or persons, as the case may be, with whom the SPD has entered into any of the EPC Contract, the O&M or any other material agreement or contract for construction, and/or maintenance of the Project or matters incidental thereto, but does not include a person who has entered into an agreement for providing financial assistance to the SPD;

ll) **"Cure Period**" means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Party responsible for such breach or default and shall:

i. commence from the date on which a notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice;

ii. not relieve any Party from liability to pay Damages or compensation under the provisions of this Agreement; and

iii. not in any way be extended by any period of Suspension under this Agreement;

provided that if the cure of any breach by the SPD requires any reasonable action by the SPD that must be approved by Railways hereunder, the applicable Cure Period shall be extended by the period taken by Railways to accord their approval;

mm) "**Damages**" shall have the meaning set forth in Sub-clause (x) of Clause 1.2.1;

nn) **DBFOT**" or "Design, Build, Operate, Finance and Transfer" shall have the meaning set forth in Preliminary;

oo) "**Debt Due**" means the aggregate of the following sums expressed in Indian Rupees outstanding on the Transfer Date:

(a) the principal amount of the debt provided by the Senior Lenders under the Financing Agreements for financing the Total Project Cost (the "principal") but excluding any part of the principal that had fallen due for repayment two year prior to the Transfer Date;

(b) all accrued interest, financing fees and charges payable under the Financing Agreements on, or in respect of, the debt referred to in Sub-clause (a) above until the Transfer Date but excluding (i) any interest, fees or charges that had fallen due one year prior to the Transfer Date, (ii) any penal interest or charges payable under the Financing Agreements to any Senior Lender, and (iii) any pre-payment charges in

relation to accelerated repayment of debt except where such charges have arisen due to Railways Default; and

(c) any Subordinated Debt which is included in the Financial Package and disbursed by lenders for financing the Total Project Cost;

provided that if all or any part of the Debt Due is convertible into Equity at the option of Senior Lenders and/or the Concessionaire, it shall for the purposes of this Agreement be deemed to be Debt Due even after such conversion and the principal thereof shall be dealt with as if such conversion had not been undertaken;

pp) "**Debt Service**" means the sum of all payments on account of principal, interest, financing fees and charges due and payable in an Accounting Year to the Senior Lenders under the Financing Agreements;

qq) "**Delivery Point**" shall be the interconnection point at which the Solar Power Developer shall deliver the power to the Railways. The metering shall be done at this point of Interconnection. All charges and losses up to the Delivery Point shall be borne by the Solar Power Developer;

rr) "**Deemed Generation**" has the meaning set forth in Article 16

ss) "**Default Notice**" means Railways Default Notice or Solar Power Developer Default Notice, as the case may be;

tt) "**Delivered Energy**" means the Electricity measured by the Main Meter at the Delivery Point;

uu) "**Development Period**" means the period starting from Effective date till the project get Commissioned.

vv) "**Dispute**" has the meaning set forth in Article 33;

ww) "**Disruption Period**" has the meaning set forth in Article 10 and Article 15;

xx) "**Distribution Code**" means, collectively, the Railways Electricity Distribution Code /Manual and Related Matters Regulations; and the SERC Standard of Performance of Distribution Licensee, as amended from time to time;

yy) "**Distribution Grid**" means the distribution system for the operation of which Railways holds the distribution rights;

zz) "**Due Date**" shall mean the Last Day of the Month provided the Solar Power Developer raises bill up to 4th day of the month. For the bills raised after 4th it shall be 30th day from the date of raising of bill, by which date such Monthly Bill is payable by Railways;

aaa) "**Disputed Amount**" shall have the meaning set forth in Article 23;

bbb) "**Dispute Resolution Procedure**" means the procedure for resolution of Disputes set forth in Article 33;

ccc) "**Document**" or "**Documentation**" means documentation in printed or written form, or in tapes, discs, drawings, computer programmes, writings, reports, photographs, films, cassettes, or expressed in any other written, electronic, audio or visual form;

ddd) "**Drawings**" means all of the drawings, calculations and documents pertaining to the Project;

eee) "**Distribution Utility**" means the local electric distribution owner and operator providing electric distribution and interconnection services to Purchaser at the Premises;

fff) "**Effective Date**" means the date on which the PPA is executed as defined in Article 3;

ggg) "**Expiration Date**" means the date on which the Agreement terminates by reason of expiration of the Term referring Article 28;

hhh) "**Electricity**" means the electrical energy measured in kilowatt-hours;

iii) "**Emergency**" means a condition or situation that is likely to endanger the safety of the individuals on or about the Project, including Users thereof, or which poses an immediate threat of material damage to any of the Project Assets;

jjj) "**EPC Contract**" means the engineering, procurement and construction contract or contracts entered into by the SPD with one or more Contractors for, *inter alia*, engineering and construction of the Project in accordance with the provisions of this Agreement;

kkk) "**EPC Contractor**" means the person with whom the SPD has entered into an EPC Contract;

lll) "**Equity**" means the sum expressed in Indian Rupees representing the paid up equity share capital of the SPD for meeting the equity component of the Total Project Cost, and for the purposes of this Agreement shall include convertible instruments or other similar forms of capital, which shall compulsorily convert into equity share capital of the Company, and any interest-free funds advanced by any shareholder of the Company for meeting such equity component;

mmm) "**Emergency**" means (i) a condition or situation of physical damage to the Railways electrical system including the local Distribution Grid, which threatens the safe and reliable operation of such system or which is likely to result in disruption of safe, adequate and continuous electric supply by the Project/Distribution Grid or could endanger life or property and whether or not caused by Force Majeure Event; or (ii) any other condition akin to the above that prevents safe and reliable operation of the Distribution Grid; Provided that in each of the two situations above, the condition leading to the Emergency must have been beyond the reasonable control of Railways and/or should not have been attributable to any default, omission or commission on the part of Railways and/or Railways has shall have maintained the Distribution Grid in accordance with the Distribution Code and Applicable Law;

nnn) "**Escrow Account**" means an Account which the SPD shall open and maintain with a Bank in which all inflows and outflows of cash on account of capital and revenue receipts and expenditures shall be credited and debited, as the case may be, in accordance with the provisions of this Agreement, and includes the Sub-Accounts of such Escrow Account;

ooo) "**Escrow Agreement**" shall have the meaning set forth in Article 24;

ppp) "**Escrow Bank**" shall have the meaning set forth in Article 24;

qqq) "**Escrow Default**" shall have the meaning set forth in Schedule K;

rrr) "**Event of Default**" means Railways Event of Default or Solar Power Developer Event of Default, as the case may be;

sss) "**Financing Agreements**" means the agreements executed by the Solar Power Developer in respect of financial assistance to be provided by the Lenders by way of loans, guarantees, subscription to non-convertible debentures and other debt instruments including loan agreements, guarantees, notes, debentures, bonds and other debt instruments, security agreements, and other documents relating to the financing (including refinancing) of the Total Project Cost, and includes amendments or modifications made in accordance with Clause 5.2.2;

ttt) "**Fiscal Year**" shall mean, (i) the period commencing the Commissioning Date and ending at 00.00 hours at midnight on the following March 31; and (ii) thereafter, each period of commencing April 1 and end on the following March 31, unless this Agreement is terminated or expires, in which case the period ending on the date of expiry of such termination, as the case may be;

uuu) "**Financial Model**" means the financial model adopted by Senior Lenders, setting forth the capital and operating costs of the Project and revenues therefrom on the basis of which financial viability of the Project has been determined by the Senior Lenders, and includes a description of the assumptions and parameters used for making calculations and projections therein;

vvv) "**Financial Package**" means the financing package indicating the total capital cost of the Transmission System and the means of financing thereof, as set forth in the Financial Model and approved by the Senior Lenders, and includes Equity, all financial assistance specified in the Financing Agreements, Subordinated Debt and Equity Support, if any;

www) "**Financing Agreements**" means the agreements executed by the SPD in respect of financial assistance to be provided by the Senior Lenders by way of loans, guarantees, subscription to non-convertible debentures and other debt instruments including loan agreements, guarantees, notes, debentures, bonds and other debt instruments, security agreements, and other documents relating to the financing (including refinancing) of the Total Project Cost, and includes amendments or modifications;

xxx) "**Force Majeure Event**" has the meaning given to it in Section 35;

yyy) "**GoI**" means the Government of the Republic of India and any agency, legislative body, department, political subdivision, authority or instrumentality thereof;

zzz) "**Governmental Authority**" means any central, state, regional, district, town, city, or municipal government, whether domestic or foreign, or any department, agency, bureau, or other administrative, regulatory or judicial body of any such government;

aaaa) "**Government Instrumentality**" means any department, division or sub-division of the Government of India or the State Government and includes any commission, board, authority, agency or municipal and other local authority or statutory body including Panchayat under the control of the Government of India or the State Government, as the case may be, and having jurisdiction over all or any part of the Project or the performance of all or any of the services or obligations of the SPD under or pursuant to this Agreement;

bbbb) "**Good Industry Practice**" means the practices, methods, techniques, designs, standards, skills, diligence, efficiency, reliability and prudence which are generally and reasonably expected from a reasonably skilled and experienced operator engaged in the same type of undertaking as envisaged under this Agreement and which would be expected to result in the performance of its obligations by the SPD in accordance with this Agreement, Applicable Laws and Applicable Permits in reliable, safe, economical and efficient manner;

cccc) "**Indemnified Persons**" means Railways Indemnified Parties or the Solar Power Developer Indemnified Parties, as the context requires;

dddd) "**Invoice Dispute Notice**" has the meaning given to it in Article 23;

eeee) "**Interconnection Facilities**" means all the facilities installed by the Solar Power Developer at the Relevant Premises to enable Railways to receive the Delivered Energy from the Project at the Delivery Point, including transformers, and associated equipment, relay and switching equipment, protective devices and safety equipment;

ffff) "**Interconnection Scheme**" means the scheme set out in Schedule C and Schedule D for establishing connection of the Solar Power Developer's installation comprising the Project on Relevant Premises;

gggg) "**Installed Capacity**" means the aggregate capacity of **** kWp as certified after the commissioning test at the generating terminal(s);

hhhh) "**Installation Work**" means the construction and installation of the System and the start-up, testing and acceptance (but not the operation and maintenance) thereof, all performed by or for the Solar Power Developer at the Premises;

iiii) "**Insolvency Event**" means with respect to a Party, that either:

i. Such Party has
(A) applied for or consented to the appointment of, or the taking of possession by, a receiver, custodian, trustee, administrator, liquidator or the like of itself or of all or a substantial part of its assets or business;
(B) been unable to pay its debts as such debts become due;
(C) made a general assignment for the benefit of its creditors;
(D) commenced a voluntary proceeding under any insolvency or bankruptcy law;
(E) filed a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; or
(F) taken any corporate or other action for the purpose of effecting any of the foregoing; or

ii. It is clarified that a dissolution or liquidation will not be an Insolvency Event if such dissolution or liquidation is for the purpose of a merger, consolidation or reorganization, and the resulting company retains creditworthiness similar to the dissolved or liquidated entity and expressly assumes all obligations of the dissolved and liquidated entity under this Agreement and is in a position to perform them;

jjjj) "**Insurance Cover**" means the aggregate of the maximum sums insured under the insurances taken out by the SPD pursuant to Article 25, and includes all insurances required to be taken out by the SPD under Clause 25.1 but not actually taken, and

when used in the context of any act or event, it shall mean the aggregate of the maximum sums insured and payable or deemed to be insured and payable in relation to such act or event;

kkkk) "**Intellectual Property**" means all patents, trade-marks, service marks, logos, get-up, trade names, internet domain names, rights in designs, blue prints, programmes and manuals, drawings, copyright (including rights in computer software), database rights, semi-conductor, topography rights, utility models, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for registration, and all rights or forms of protection having equivalent or similar effect anywhere in the world;

llll) "**Invoice Date**" has the meaning set forth in Article 23

mmmm) "**Inspection Report**" shall have the same meaning set forth in Article 13;

nnnn) "**kV**" means Kilovolts;

oooo) "**kW**" means Kilowatts;

pppp) "**kWp**" means Kilowatts peak/Rated Power

qqqq) "**kWh**" means Kilowatt-hour;

rrrr) "**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 and shall further include without limitation all applicable rules, regulations, orders, notifications by an India Governmental Instrumentality pursuant to or under any of them and shall include without limitation all rules, regulations, decisions and orders of the Appropriate Commission;

ssss) "**Lender(s)**" means the banks, other financial institutions, multilateral agencies, RBI registered non-banking financial companies, mutual funds and agents or trustees of debenture/ bond holders, including their successors and assignees, who have agreed as on or before commencement of supply of power from the Project to provide the Solar Power Developer with the debt financing for the Project, and any successor banks or financial institutions to whom their interests under the Financing Documents may be transferred or assigned, provided that such assignment or transfer does not relieve the Solar Power Developer of its obligations to Railways under this Agreement in any manner and does not lead to an increase in the liability of Railways at any given point of time;

tttt) "**Lender's Representative**" means the person notified by the Lenders in writing as being the representative of the Lenders and such person may from time to time be replaced

uuuu) "**Losses**" means all losses, liabilities, claims, demands, suits, causes of action, judgments, awards, damages, cleanup and remedial obligations, interest, fines, fees, penalties, costs and expenses (including all attorneys' fees and other costs and expenses incurred in defending any such claims or other matters or in asserting or enforcing any indemnity obligation);

vvvv) "**Main Meter**" means for each Unit, the Metering System which would primarily be used for accounting and billing of Electricity generated by Units comprising the Facility to be installed at the Delivery Point and operated and maintained by the

Solar Power Developer pursuant to Article 18

wwww) "**Maintenance Manual**" shall have the meaning ascribed to it in

Article 15;

xxxx) "**Material Adverse Effect**" means a material adverse effect of any act or event on the ability of either Party to perform any of its obligations under and in accordance with the provisions of this Agreement and which act or event causes a material financial burden or loss to either Party;

yyyy) "**Metering Date**" means the first Business Day of each calendar month subsequent to the month in which the Solar Power is generated by the Solar Power Developer. The billable units shall be equal to the difference between the meter reading on the Metering Date and the meter reading on the previous month's Metering Date;

zzzz) "**Metering System**" means the meters and other applicable devices/instruments installed and used for measurement of Electricity, delivered from the Electricity generated by Units comprising the Facility, as per the specifications provided in Schedule C and shall comprise of the Main Meter and the Back Up Meter;

aaaaa) "**Minimum Capacity Utilization Factor (CUF)**" means Normative Capacity Utilization Factor for the relevant year solar PV projects or [16%] whichever is higher.

bbbbb) "**Month**" means a period of thirty (30) days from (and excluding) the date of the event, where applicable, else a calendar month;

ccccc) "**MW**" means Megawatts;

ddddd) "**Normative Capacity Utilization Factor (CUF)**" means capacity utilization factor as stipulated in the States Tariff Order for the relevant year solar PV projects.

eeeee) "**Non-Political Event**" shall have the meaning set forth in Clause 35.2;

fffff)"**Other Invoice**" means an invoice other than a Tariff Invoice raised by any of the Parties in accordance with Article 23;

ggggg)"**Operation Period**" means the period commencing from COD and ending on the Transfer Date;

hhhhh) "**Party**" or "**Parties**" has the meaning set forth in the preamble to this Agreement

iiiii) "**Performance Guarantee/ Performance Security**" has the meaning given to it in Schedule G;

jjjjj) "**Person**" means an individual, partnership, corporation, limited liability company, business trust, joint stock company , trust, unincorporated association, joint venture, firm, or other entity, or a Governmental Authority;

kkkkk) "**Phased Commissioning**" has the meaning given to it in Article 14;

lllll) "**Project**" means the development, financing, designing, construction, installation,

commissioning, operation and maintenance of the Facility;

mmmmm) "**Project Agreement**" has the meaning given in Article 5;

nnnnn) "**Project Assets**" means all physical and other assets relating to and forming part of the Site including:

i. rights over the Site in the form of licence, Right of Way or otherwise;

ii. tangible assets such as civil works and equipment

iii. Project Facilities situated on the Site;

iv. all rights of the SPD under the Project Agreements;

v. financial assets, such as receivables, security deposits etc;

vi. insurance proceeds; and

vii. Applicable Permits and authorisations relating to or in respect of the Project;

ooooo) "**Project Completion Date**" means the date on which the Completion Certificate is issued under the provisions of Article 14;

ppppp) "**Project Milestones**" shall mean and include such date, period or Project Milestones as may be extended pursuant to this Agreement;

qqqqq) "**Project Site/ Site**" means the parcels of rooftops, rights-of-way, easements and access roads comprised in the Relevant Buildings upon which the Unit(s) comprising the Project will be installed;

rrrrr)"**Prudent Utility Practices**" shall mean the practices, methods and standards that are generally accepted internationally from time to time by electric utilities for the purpose of ensuring the safe, efficient and economic design, construction, commissioning, operation and maintenance of power generation equipment and which practices, methods and standards shall be adjusted as necessary, to take account of:

i. operation and maintenance guidelines recommended by the manufacturers of the plant and equipment to be incorporated in the Power Project;
ii. the requirements of Indian Law; and the physical conditions at the site of the Power Project;

sssss) "**Purchase Price or Buyback price**" means the fee payable by Railways to the Solar Power Developer as prescribed in Article 28

ttttt) "**Railways Default or Railways Event of Default**" has the meaning set forth in Article 28

uuuuu) "**Relevant Building**" means a Railways Building comprising the Project Site;

vvvvv) "**Relevant Premises**" means the rooftop on a Relevant Building, provided by Railways to the Solar Power Developer for the purpose of implementing the Project;

wwwww) "**Request for Proposal**" or "**RFP**" shall have the meaning set forth in Preamble;

xxxxx)"**Request for Qualification**" or "**RFQ**" shall have the meaning set forth in Preamble;

yyyyy) "**Right of Way**" means the access to the sitewith the intention of using it for installation of Project, including the way from the entry point to the rooftop through the shortest accessible way, easements and other rights of way, howsoever described, necessary for construction, operation and maintenance of the Projects in accordance with this Agreement;

zzzzz) "**Safety Requirements**" shall have the meaning set forth in Schedule E;

aaaaaa) "**Scheduled COD**" or "Scheduled Commercial Operation Date" means in respect of the Facility, the date falling on the last day of the expiry of 09 months from the Appointed Date, as extended or pre-poned in accordance with the provisions of this Agreement;

bbbbbb) "**Selectee**" means a new company (i) proposed by the Lenders and approved by Railways (ii) or proposed by Railways and approved by the Lenders, for substituting the Power Producer for the residual period of the Agreement by amendment of the Agreement or by execution of a fresh power purchase agreement in accordance with the terms and conditions contained in the said Schedule.

cccccc) "**Senior Lenders**" means the financial institutions, banks, multilateral lending agencies, trusts, funds and agents or trustees of debenture holders, including their successors and assignees, who have agreed to guarantee or provide finance to the SPD under any of the Financing Agreements for meeting all or any part of the Total Project Cost and who hold *paripassu* charge on the assets, rights, title and interests of the SPD;

dddddd) "**Solar Power**" shall mean electricity generated from the rooftop solar generation project;

eeeeee) "**Solar Rooftop Power System/Project**" includes a solar PV panel power generation facility to be established by the Solar Power Developer on the Relevant Premises, located within Railway's license area, having an Installed Capacity and includes the integrated assembly of photovoltaic panels, mounting assemblies, inverters, converters, metering, lighting fixtures, transformers, ballasts, disconnects, combiners, switches, wiring devices and wiring, and all other material comprising the Installation Work, including protection equipment and the like necessary to deliver the Electricity generated by it to Railways at the relevant Delivery Points;

ffffff) "**Specifications and Standards**" means the specifications and standards relating to the quality, quantity, capacity and other requirements for the Project, as set forth in Schedule C, and any modifications thereof, or additions thereto, as included in the design and engineering for the Project submitted by the SPD to, and expressly approved by, Railways.

gggggg) "**Specified Documents**" has the meaning given to it in Article 34

hhhhhh) "**Statutory Auditors**" means a reputable firm of chartered accountants acting as the statutory auditors of the Concessionaire under the provisions of the Companies Act2013 including any statutory modification or re-enactment thereof, for the time being in force, and appointed in accordance with Article 26

iiiiii)"**Statutory Entity**" means:

1. in case of a State:

   a) any ministry, department, sub-division, instrumentality or agency under the direct control of the state Government; or
   b) any company, corporation, government undertaking or other authority under the direct control of the state Government; or
   c) any other entity under the direct control of the state Government or established under law; or
   d) State Electricity Regulatory Commission,

And

2. in case of any other jurisdiction and the Central Government of the Republic of India, the government of that jurisdiction or the Central Government, any ministry department, sub-division instrumentality or agency or any company corporation government undertaking, commission, or any other entity under the direct or indirect control of such government or Central Government, or a regulatory entity established under law;

jjjjjj) "**Substitution Agreement**" shall have the meaning set forth in Article 27 and Schedule L;

kkkkkk) "**System Operations**" means the Solar Power Developer's operation, maintenance and repair of the System performed in accordance the requirements herein;

llllll)"**Tariff**" means the tariff specified for the relevant period in Article 23

mmmmmm) "**Tariff Payment/ Solar Power Payment**" means the payments to be made under Tariff Invoice and the relevant Other Invoices;

nnnnnn) "**Taxes**" means any Indian taxes including excise duties, customs duties, value added tax, sales tax, local taxes, cess and any impost or surcharge of like nature (whether Central, State or local) on the goods, materials, equipment and services incorporated in and forming part of the Project charged, levied or imposed by any Government Instrumentality, but excluding any interest, penalties and other sums in relation thereto imposed on any account whatsoever. For the avoidance of doubt, Taxes shall not include taxes on corporate income;

oooooo) "**Termination Notice**" has the meaning set forth in Article 28

pppppp) "**Termination Payment**" means the amount payable, under and in accordance with this Agreement, by the parties upon Termination. For the avoidance of doubt, it is expressly agreed that the amount payable shall be subject to the conditions specified in Article 28;

qqqqqq) "**Testing Procedures**" means the procedures for undertaking Commissioning Tests as agreed between the Solar Power Developer and tests as agreed between Railways or its representative(s);

rrrrrr) "**Tests**" means the tests to be conducted by the SPD pursuant to the Testing Procedures before the project commissioned.

ssssss) "**Technical Limits**" means the limits and constraints described in Schedule C, relating to the operations, maintenance and dispatch of the Project;

tttttt)"**Total Project Cost**" means the capital cost incurred on construction and financing of the Project and shall be limited to the lowest of ;

(a) the capital cost of the Project Assets less CFA as set forth in the Financial Package;

(b) the actual capital cost of the Project Assets less CFA upon completion of the Project;'.

provided that in the event of Termination, the Total Project Cost shall be deemed to be modified to the extent of variation in WPI or Reference Exchange Rate occurring in respect of Adjusted Equity and Debt Due, as the case may be, in accordance with the provisions of this Agreement;

uuuuuu) "**Transfer Date**" means the date on which this Agreement expires pursuant to the provisions of this Agreement or is terminated by a Termination Notice.

vvvvvv) "**Unit**" means each power generation installation consisting of solar PV panels and auxiliary equipment and facilities forming part of the Facility to be installed on each Relevant Premises and separately connected with the Distribution Grid of Railways and all the Units comprising the Facility aggregate to the installed capacity of (** MWp/ ** kWp)

wwwwww) "**WPI**" means the Wholesale Price Index for all commodities as published by the Ministry of Industry, GOI and shall include any index which substitutes the WPI, and any reference to WPI shall, unless the context otherwise requires, be construed as a reference to the WPI published for the period ending with the preceding month

xxxxxx) "Zonal Railway" means ***, constituted under section 3 of the Railway Act, 1989.

1.2 Interpretation

1.2.1 In this Agreement, unless the context otherwise requires,

(a) references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;

(b) references to laws of ***, or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;

(c) references to a "**person**" and words denoting a natural person shall be construed as a reference to any individual, 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 shall include successors and assigns;

(d) the table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;

(e) the words "**include**" and "**including**" are to be construed without limitation and shall be deemed to be followed by **"without limitation"** or **"but not limited to"** whether or not they are followed by such phrases;

(f) references to "**construction**" or **"building"** include, unless the context otherwise requires, investigation, design, developing, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction, and "**construct**" or **"build"** shall be construed accordingly;

(g) references to "**development**" include, unless the context otherwise requires, construction, renovation, refurbishing, augmentation, up-gradation and other activities incidental thereto, and "**develop**" shall be construed accordingly;

(h) any reference to any period of time shall mean a reference to that according to Indian Standard Time;

(i) any reference to "hour" shall mean a period of 60 (sixty) minutes commencing either on the hour or on the half hour of the clock, which by way of illustration means 5.00 (five), 6.00 (six), 7.00 (seven) and so on being hours on the hour of the clock and 5.30 (five thirty), 6.30 (six thirty), 7.30 (seven thirty) and so on being hours on the half hour of the clock;

(j) any reference to day shall mean a reference to a calendar day;

(k) references to a "**business day**" shall be construed as a reference to a day (other than a Sunday) on which banks in [Delhi] are generally open for business;

(l) any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;

(m) references to any date, period or Project Milestones shall mean and include such date, period or Project Milestones as may be extended pursuant to this Agreement;

(n) any reference to any period commencing "**from**" a specified day or date and "**till**" or "**until**" a specified day or date shall include both such days or dates; provided that if the last day of any period computed under this Agreement is not a business day, then the period shall run until the end of the next business day;

(o) the words importing singular shall include plural and vice versa;

(p) references to any gender shall include the other and the neutral gender;

(q) "**lakh**" means a hundred thousand (100,000) and "**crore**" means ten million (10,000,000);

(r) "**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;

(s) references to the "**winding-up**", "**dissolution**", "**insolvency**" or "**reorganisation**" 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, reorganisation, dissolution, arrangement, protection or relief of debtors;

(t) save and except as otherwise provided in this Agreement, any reference, at any time, to any agreement, deed, instrument, licence or document of any description shall be construed as reference to that agreement, deed, instrument, licence or other document as amended, varied, supplemented, modified or suspended at the time of such reference; provided that this Sub-clause shall not operate so as to increase liabilities or obligations of Railways hereunder or pursuant hereto in any manner whatsoever;

(u) any agreement, consent, approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or the Railway Electrical Engineer shall be valid and effective only if it is in writing under the hand of a duly authorised representative of such Party or the Railway Electrical Engineer, as the case may be, in this behalf and not otherwise;

(v) the Schedules and Recitals to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;

(w) references to Recitals, Articles, Clauses, Sub-clauses or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-clauses and Schedules of or to this Agreement, and references to a Paragraph shall, subject to any contrary indication, be construed as a reference to a Paragraph of this Agreement or of the Schedule in which such reference appears;

(x) the damages payable by either Party to the other of them, as set forth in this Agreement, whether on *per diem* basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty (the "**Damages**");

(y) time shall be of the essence in the performance of the Parties" respective obligations. If any time period specified herein is extended, such extended time shall also be of the essence; and

(z) Unless the context otherwise requires, words or expressions used in this Agreement, but not defined herein, shall bear the same meaning as in the Railways Act,1989 or other policies and manuals as issued by Railways from time to time or any statutory modification thereof in force at the date of this Agreement.

1.2.2 Unless expressly provided otherwise in this Agreement, any Documentation required to be provided or furnished by the Solar Power Developer to Railways and/ or the Railway Electrical Engineer shall be provided free of cost and in three copies, and if Railways and/or the Railway Electrical Engineer is required to return any such Documentation with their comments and/or approval, they shall be entitled to retain two copies thereof.

1.2.3 The rule of construction, if any, that a contract should be interpreted against the parties responsible for the drafting and preparation thereof, shall not apply.

1.2.4 Any word or expression used in this Power Purchase Agreement shall, unless otherwise defined or construed in this Power Purchase Agreement, bear its ordinary English meaning and, for these purposes, the General Clauses Act, 1897 shall not apply.

1.3 Measurements and arithmetic conventions

All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5 (five) being rounded down.

1.4 Priority of agreements, clauses and schedules

1.4.1 This Agreement, and all other agreements and documents forming part of or referred to in this Agreement are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this Agreement, the priority of this Agreement and other documents and agreements forming part hereof or referred to herein shall, in the event of any conflict between them, be in the following order:

(a) this Agreement; and

(b) all other agreements and documents forming part hereof or referred to herein;

i.e. the Agreement at (a) above shall prevail over the agreements and documents at (b) above.

1.4.2 Subject to the provisions of Clause 1.4.1, in case of ambiguities or discrepancies within this Agreement, the following shall apply:

(a) between two or more Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;

(b) between the Clauses of this Agreement and the Schedules, the Clauses shall prevail and between Schedules and Annexes, the Schedules shall prevail;

(c) between any two Schedules, the Schedule relevant to the issue shall prevail;

(d) between the written description on the Drawings and the Specifications and Standards, the latter shall prevail;

(e) between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail; and

(f) between any value written in numerals and that in words, the latter shall prevail.

ARTICLE 2

SCOPE OF THE PROJECT

2. Scope of the Project

2.1. The scope of the Project (the "Scope of the Project") shall mean and include, during the Agreement (Contract) Period:

a. Design, financing, procurement, construction and commissioning of the rooftop solar generation project development as per the scope defined in Schedule A at sites specified in Schedule B, in conformity with the Technical Specifications and Standards set forth in Schedule C and Interconnection requirements set forth in Schedule D;

b. operation and maintenance of the solar rooftop project in accordance with the provisions of this Agreement; and

c. Performance and fulfilment of all other obligations of the Solar Project Developer (SPD) in accordance with the provisions of this Agreement and matters incidental thereto or necessary for the performance of any or all of the obligations of the SPD under this Agreement.

ARTICLE 3

POWER PURCHASE AGREEMENT (PPA)

3.1 The Power Purchase Agreement (PPA)

3.1.1. Subject to and in accordance with the provisions of this Agreement, the Applicable Laws and the Applicable Permits, Railways hereby agrees to enter into this Power Purchase Agreement with the SPD. The agreement set forth herein the exclusive contractual rights, and authority to construct, operate and maintain the Solar Rooftop Project, (the "Power Purchase Agreement") for a period of 25 (twenty five) years commencing from the Appointed Date. The SPD hereby accepts the Agreement and agrees to implement the Project subject to and in accordance with the terms and conditions set forth herein, The date on which the PPA is executed is said to be "Effective Date".

3.1.2 Subject to and in accordance with the provisions of this Agreement, the Railways hereby grants, obliges and entitles (as the case may be) the SPD:

(a) Right of Way, access and permission to construct and operate the solar rooftop project at the identified Site for the purpose of and to the extent conferred by the provisions of this Agreement;

(b) finance and construct the Project;

(c) operate, manage and maintain the project;

(d) demand an appropriate Tariff from Railways for supplying electricity as per this Agreement or any part thereof;

(e) perform and fulfil all of the SPD's obligations under and in accordance with this Agreement;

(f) bear and pay all costs, expenses and charges in connection with or incidental to the performance of the obligations of the SPD under this Agreement; and

(g) neither assign, transfer or sublet or create any lien or Encumbrance on this Agreement, or on the whole or any part of the Project nor transfer, lease or part possession thereof, save and except as expressly permitted by this Agreement or the Substitution Agreement.

3.2 Railway Administration

The Parties agree that the SPD shall be deemed to be a Railway Administration (*as defined in the Railways Act, 1989*) for the purpose of construction, operation and maintenance of the rooftop solar power project, and shall exercise the rights and perform the obligations of the Railway Administration as specified under the provisions of the Railways Act, 1989, however, such rights and obligations shall at all times be subject to the provisions of this Agreement.

ARTICLE 4

CONDITIONS PRECEDENT

4.1 Conditions Precedent

4.1.1 Save and except as expressly provided in Articles 4, 9, 10 and 20, , or unless the context otherwise requires, the respective rights and obligations of the Parties under this Agreement shall be subject to the satisfaction in full of the conditions precedent specified in this Clause 4.1 (the "Conditions Precedent").

4.1.2 The SPD may, upon providing the Performance Guarantee to Railways in accordance with Article 9, at any time after [30 (thirty)] days from the date of this Agreement or on an earlier day acceptable to Railways, by notice require Railways to satisfy any or all of the Conditions Precedent set forth in this Clause (Clause 4.1.2) within a period of [60 (sixty)] days of the notice, or such longer period not exceeding [90 (ninety)] days as may be specified therein, and the Conditions Precedent required to be satisfied by Railways shall be deemed to have been fulfilled when Railways shall have:

(a) given to the SPD the Right of Way to the Site in accordance with the provisions of Clause 10.3.1; and

(b) procured approval for the general arrangement Drawings submitted by the SPD along with the notice, to enable the SPD to install the rooftop solar project in accordance with the Specifications and Standards and subject to the terms and conditions specified in such approval;

4.1.3 The Conditions Precedent required to be satisfied by the SPD prior to the Appointed Date shall be deemed to have been fulfilled when the SPD shall have:

(a) provided Performance Security to Railways;

(b) executed and procured execution of the Escrow Agreement;

(c) executed and procured execution of the Substitution Agreement;

(d) provided a notice to Railways on meeting their conditions precedent along with a set of drawings and project completion schedule to be approved by Railways

(e) procured all the Approvals specified in Schedule F and also from other agencies unconditionally or if subject to conditions, then all such conditions required to be fulfilled by the date specified therein shall have been satisfied in full and such Approvals are in full force and effect;

(f) executed the Financing Agreements and delivered to Railways 3 (three) true copies thereof, duly attested by a Director of the SPD;

(g) delivered to Railways 3 (three) true copies of the Financial Package and the Financial Model, duly attested by a Director of the SPD, along with 3 (three) soft copies of the Financial Model in MS Excel version or any substitute thereof, which is acceptable to the Senior Lenders;

(h) delivered to SPD from {the Consortium Members, their respective}

confirmation, in original, of the correctness of their representations and warranties set forth in relevant Sub-clauses of Clause 7.1 of this Agreement; and

(i) delivered to Railways a legal opinion from the legal counsel of the SPD with respect to the authority of the SPD to enter into this Agreement and the enforceability of the provisions thereof:

Provided that upon request in writing by the SPD, Railways may, in its discretion, waive any of the Conditions Precedent set forth in this Clause 4.1.3. For the avoidance of doubt, Railways may, in its sole discretion, grant any waiver hereunder with such conditions as it may deem fit.

4.1.4 Each Party shall make all reasonable endeavours to satisfy the Conditions Precedent within the time stipulated and shall provide the other Party with such reasonable cooperation as may be required to assist that Party in satisfying the Conditions Precedent for which that Party is responsible.

4.1.5 The Parties shall notify each other in writing at least once a month on the progress made in satisfying the Conditions Precedent. Each Party shall promptly inform the other Party when any Condition Precedent for which it is responsible has been satisfied.

4.2 Damages for delay by Railways

In the event that (i) Railways does not procure fulfilment of any or all of the Conditions Precedent set forth in Clause 4.1.2 within the period specified in respect thereof, and (ii) the delay has not occurred as a result of breach of this Agreement by the SPD or due to Force Majeure, Railways shall pay to the SPD Damages in an amount calculated at the rate of 0.1% (zero point one per cent) of the Performance Security for each day's delay until the fulfilment of such Conditions Precedent, subject to a maximum of 20% (twenty per cent) of the Performance Security.

4.3 Damages for delay by the SPD

In the event that (i) the SPD does not procure fulfilment of any or all of the Conditions Precedent set forth in Clause 4.1.3 within a period of 90 (Ninety) days from the date of this Agreement, and (ii) the delay has not occurred as a result of failure to fulfil the obligations under Clause 4.1.2 or other breach of this Agreement by Railways or due to Force Majeure, the SPD shall pay to Railways, Damages in an amount calculated at the rate of 0.2% (zero point two per cent) of the Performance Security for each day's delay until the fulfilment of such Conditions Precedent, subject to a maximum of 20% (twenty per cent) of the Performance Security.

‡If completion of construction on any part of the Site is considered critical for issue of Completion Certificate, such part shall be specified in this Sub-clause so that it does not form part of the Appendix referred to in Clause 10.3.1, on or after the Appointed Date.

ARTICLE 5

OBLIGATIONS OF THE SOLAR POWER DEVELOPER (SPD)

5.1 Obligations of the SPD

5.1.1 Subject to and on the terms and conditions of this Agreement, the SPD shall, at its own cost and expense, procure finance for and undertake the design, engineering, procurement, construction operation and maintenance of the rooftop solar project and observe, fulfil, comply with and perform all its obligations set out in this Agreement or arising hereunder.

5.1.2 The SPD shall comply with all Applicable Laws and obtain Approvals (including renewals as required) in the performance of its obligations under this Agreement.

5.1.3 Subject to the provisions of Clauses 5.1.1 and 5.1.2, the SPD shall discharge its obligations in accordance with Good Industry Practice and as a reasonable and prudent person.

5.1.4 The SPD shall, at its own cost and expense, in addition to and not in derogation of its obligations elsewhere set out in this Agreement:

(a) make, or cause to be made, necessary applications to the relevant Government Instrumentalities with such particulars and details as may be required for obtaining Approvals (other than those set forth in Clause 5.1.2), and obtain and keep in force and effect such Approvals in conformity with the Applicable Laws, the Distribution Code, the terms and conditions of this Agreement and Prudent Utility Practices

(b) procure, as required, the appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes and systems used or incorporated into the rooftop solar project;

(c) perform and fulfil its obligations under the Financing Agreements;

(d) make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it or its Contractors in connection with the performance of its obligations under this Agreement;

(e) ensure and procure that its Contractors comply with all Approvals and Applicable Laws in the performance by them of any of the SPD's obligations under this Agreement;

(f) not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement;

(g) make its own arrangement for and take reasonable measures and shall be solely responsible for security of the Facility Installations, including commercially reasonable monitoring of the Site's alarms, if any

(h) comply with the directions of the Railways in case of emergency to shut down the plant. Railways will only issues directions to the same in case of the occurrence of a state of Emergency (a state of emergency may be defined as a situation where the safe working of the internal grid of the Railways/ grid sanctity of the distribution grid is or is likely to be compromised due to conditions beyond the control of the Railways). In such a condition, the Railways reserves the right, in order to ensure safe operation of the Internal Grid in

accordance with the applicable Distribution Code, Applicable Law and directions/regulations, to shut down the line and not accept any Electricity from such part of the Facility that is affected by the Emergency. Railways will exercise such right either through a written notice to the SPD or in case the written request cannot be made at the time, through a verbal request from the competent authority with the Railways responsible for network management (and back it up with a written request later), providing as much lead time as would be practicable Upon Railways exercising such right, the SPD will suitably back down its generation from the Facility. Railways will, however, make reasonable endeavours to remedy such Emergency, and bring back normalcy at the earliest. Railways will have no liability to the SPD in such circumstances.

(i) procure that all facilities and amenities within the solar rooftop power system are operated and maintained in accordance with Good Industry Practice

(j) support, cooperate with and facilitate Railways in the implementation and operation of the Project in accordance with the provisions of this Agreement; and

(k) undertake regular operation and maintenance of the Facility and the Interconnection Facilities as per the specifications and requirements laid down by the Central Electricity Authority and respective State ERCs and captured in Schedule C and Schedule D respectively, as notified to the SPD, in accordance with Prudent Utility Practices.

(l) facilitate the execution of the Net Metering agreement of Railways with the utility.

(m) Railways to provide water to the SPD for the cleaning of the solar modules and other O&M functions. In case of water scarcity, the SPD has to be informed in advance of the same and will have to arrange water, as per its requirements. The Raw Water connection point may be provided by Railways at site as available SPD obtains water by providing and laying pipes etc, from nearest water connection point made available. The Railways will have the right to charge the SPD reasonable charges for the water connection and the supply of water which may be provided to the SPD.

(n) payment of (if) any taxes, cess, duties or levies on the Electricity generated and consumed by the Facility. All taxes, cess, duties or levies on the generation and sale of Contracted Electricity shall be paid by the Solar Power Developer and passed through to Railways as a part of its normal invoicing process to Railways as per Article 23;

(o) to commence supply of the entire Contracted Electricity to Railways no later than the Scheduled COD, provided that the SPD shall not be in default of this undertaking if it fails to achieve Commissioning of the Installed Capacity on or before the Scheduled COD to the extent the Solar Power Developer has paid to Railways liquidated damages pursuant to the sections listed in this agreement;

(p) not to assign any of its obligations under this Agreement without the prior written consent of Railways;

(q) transfer the rooftop solar project to Railways upon Termination of this Agreement, in accordance with the provisions thereof.

5.2 Obligations relating to Project Agreements

5.2.1 It is expressly agreed that the SPD shall, at all times, be responsible and liable for all its obligations under this Agreement notwithstanding anything contained in the agreements

related to this project "Project Agreements" or any other agreement, and no default under any Project Agreement or any other agreement shall excuse the SPD from its obligations or liability hereunder.

5.2.2 The SPD shall submit to Railways the drafts of all Project Agreements including the Financing Agreements or any amendments or replacements thereto, for its review and comments, and Railways shall have the right but not the obligation to undertake such review and provide its comments, if any, to the SPD within [15 (fifteen)] days of the receipt of such drafts. Within [7 (seven)] days of execution of any Project Agreement or amendment thereto, the SPD shall submit to Railways a true copy thereof, duly attested by a Director of the SPD, for its record. For the avoidance of doubt, it is agreed that the review and comments hereunder shall be limited to ensuring compliance with the terms of this Agreement. It is further agreed that any failure or omission of Railways to review and/ or comment hereunder shall not be construed or deemed as acceptance of any such agreement or document by Railways. No review and / or observation of Railways and / or its failure to review and / or convey its observations on any document shall not relieve the SPD of its obligations and liabilities under this Agreement in any manner nor shall Railways be liable for the same in any manner whatsoever.

5.2.3 The SPD shall not make any addition, replacement or amendments to any of the Financing Agreements without the prior written consent of Railways if such addition, replacement or amendment has, or may have, the effect of imposing or increasing any financial liability or obligation on Railways, and in the event that any replacement or amendment is made without such consent, the SPD shall not enforce such replacement or amendment nor permit enforcement thereof against Railways. For the avoidance of doubt, Railways acknowledges and agrees that it shall not unreasonably withhold its consent for restructuring or rescheduling of the debt of the SPD.

5.2.4 The SPD shall ensure that each of the Project Agreements contains provisions that entitle Railways to step into such agreement, in its sole discretion, in substitution of the SPD in the event of Termination or Suspension. For the avoidance of doubt, it is expressly agreed that in the event Railways does not exercise such rights of substitution within a period not exceeding [90 (ninety)] days from the Transfer Date, the Project Agreements shall be deemed to cease to be in force and effect on the Transfer Date without any liability whatsoever on .

5.3 Obligations during Construction, Commissioning and Operation

5.3.1 The SPD will be responsible for the design, implementation, operation and maintenance of the project. The Solar Power Developer will Design, Engineer, Procure, Undertake Civil and Electrical work including Erection, Testing & Commissioning of the solar PV project and subsequently carry out the Operation and Comprehensive Maintenance (O&M) of the project for a period of 25 years in accordance with the provisions of the Request for Proposal [(RFP No. *** dated DD.MM.YYYY of Railways)]

5.3.2 The SPD will, within [thirty (30)] days of the Effective Date, submit to Railways, detailed drawings of the systems to be developed under the Project for approval to Railways. If Railways has any objection/ recommendation in the Drawings, Railways will communicate the same to SPD within a period of [ten (10)] working days of the date of submission of the Shop Drawings. Any delay will extend the Effective date and such approval will not be unreasonably withheld.

5.3.3 The SPD will also provide to the Railways a bill of materials listing the major equipment constituting the System. Such bill of materials will be provided within 30 days of the Effective date.

5.3.4 The SPD shall procure the solar plant in line with the MNRE requirements on domestic content.

5.3.5 The SPD will be required to submit a monthly progress report to Railways beginning with signing of Agreement till the COD in such form and on such dates as is agreed by the Solar Power Developer with Railways.

5.3.6 The SPD will notify Railways at least [15 (fifteen)] working days before the likely date of Commissioning of any Unit and at least fifteen 10 (seven) working days before the likely date for carrying out the Commissioning Tests. Railways will have the option of nominating one representative each to participate in the process of confirming the Commissioning Tests of the Unit / Facility

5.3.7 The SPD will bear all costs pertaining to the installation and Commissioning of the systems and these costs will not be recoverable in any form from Railways.

5.3.8 Subject to Section 6, the SPD will be responsible for achieving the Commercial Operation of the Facility latest by the Scheduled COD.

5.3.9 The SPD will undertake phased Commissioning. The SPD will commission the Facility in not more than three phases ("Phased Commissioning"), Provided that the entire Facility will be commissioned no later than the Scheduled COD. In case of Phased Commissioning the SPD will Commission 25% of the capacity within 90 days of Appointed Date, another 25% within next 45 days and the remaining within the schedule COD.
and

The Solar Power Developer will, no later than forty five (45) days from the Appointed Date, furnish to Railways, by way of a written notice, a proposed interconnection plan, if applicable, together with details of the Relevant Premises pertaining to each phase, and estimated time lines for the Commissioning of the phases.

5.3.10 Testing Procedures: The SPD and Railways or its representative(s) will develop suitable commissioning procedures 60 (sixty) working days before the Scheduled Commercial Operation Date (first batch of commissioning). Such procedures shall take into consideration relevant standards and benchmarks needed to be met by the systems as have been highlighted in the schedules and standards.

5.3.11 System Acceptance Testing: If the results of the testing as laid down by the Testing Procedures indicates that the System meets all the requirements set and is capable of generating electrical energy [(**kWp)] for 5 continuous hours using such instruments and meters as have been installed for such purposes, then the SPD will send a written notice to Railways to that effect, and the date of successful conducting such tests and injection of Power at Delivery Point will be the "Commercial Operation Date." The Railway Electrical Engineer will conduct the STPT- Short Term Performance Test which will be following the Testing Procedure.

5.3.12 The SPD shall supply electricity to the Railways which may be in variation of +/- 3% of the Contracted capacity.

5.3.13 If the SPD is unable to undertake Commissioning Tests for any Unit on expiry of 30 working days from the date mentioned in the notice provided by the SPD to Railways for any reason attributable to Railways (including due to non-availability of Internal Grid for Interconnection, or lack of capacity of the Internal Grid to support Electricity for conducting the Commissioning Tests, or absence of Railways representative for

Commissioning Tests), the relevant Unit will be deemed to have been Commissioned ("Deemed Commissioning") on the date mentioned in the notice for the purpose of Deemed Generation.

5.3.14 The SPD will undertake Commissioning Tests on Units that have been Deemed Commissioned within such time as is considered reasonable by Railways or its representative(s)and in accordance with Prudent Utility Practices, once the cause attributable to Railways that resulted in the relevant Unit being Deemed Commissioned has ceased. If the relevant Unit fails the Commissioning Tests, the SPD will refund the amount paid by Railways pursuant to Section 16.2 for the Deemed Commissioning Period within thirty (30) days after the date of failure of such Commissioning Tests, together with interest thereon at State Bank Advance Rate (SBAR) plus 2%. If the Unit successfully passes the Commissioning Tests, the Unit will be considered Commissioned for the purposes of this Agreement from the date it was Deemed Commissioned.

5.3.15 The SPD will provide to Railways, information regarding Electricity generated during testing, commissioning, synchronization, testing and start-up and facilitate them in getting the Net Metering agreements executed.

5.3.16 The SPD will comply with the provisions of Law including regarding operation and maintenance of the Project and all matters incidental thereto.

5.3.17 The SPD will submit regular forecasts for availability of the Facility and expected generation from the Facility to Railways as per applicable regulations of the Commission.

5.3.18 The SPD will provide and lay down the dedicated electrical cables for transmission of Solar Power from the Project up to the Delivery Point. Transmission or distribution of Solar Power beyond this point will be the responsibility of Railways. The Delivery Point will be where the Main Metering System is located.

Railways will be entitled to liquidated damages for delay in achieving the COD by Scheduled Commercial Operation Date if the SPD fails to Commission the Project on or before the Scheduled Commercial Operation Date. These damages will be met through the Performance Guarantee equivalent to the amounts due to it as above.

5.3.19 The SPD will have no liability to pay to the foregoing liquidated damages if the delay in achieving COD is solely due to:

- the occurrence of a Force Majeure event; or
- Event of Default by Railways

Notwithstanding anything to the contrary contained herein and notwithstanding the payment of liquidated damages, in the event the SPD fails to achieve Commissioning of a Unit or the Facility on or before 9 months from the Scheduled Commercial Operation Date, for any reason whatsoever, other than for Force Majeure or Event of Default by Railways under the Project Implementation Agreement, then either Party will be entitled, by written notice to the other Party of not less than 30 days, to terminate this Agreement without any consequences other than that specified under this Agreement.

5.4 Obligations relating to Change in Ownership

5.4.1. The SPD shall not undertake or permit any Change in Ownership, except with the prior written approval of Railways.

5.4.2. Notwithstanding anything to the contrary contained in this Agreement, the SPD agrees and acknowledges that:

(i) all acquisitions of Equity by an acquirer, either by himself or with any person acting in concert, directly or indirectly, including by transfer of the direct or indirect legal or beneficial ownership or control of any Equity, in aggregate of not less than 25% (twenty five per cent) of the total Equity of the SPD; or

(ii) acquisition of any control directly or indirectly of the Board of Directors of the SPD by any person either by himself or together with any person or persons acting in concert with him, shall constitute a Change in Ownership requiring prior approval of Railways from national security and public interest perspective, the decision of Railways in this behalf being final, conclusive and binding on the SPD, and undertakes that it shall not give effect to any such acquisition of Equity or control of the Board of Directors of the SPD without such prior approval of Railways. For the avoidance of doubt, it is expressly agreed that approval of Railways hereunder shall be limited to national security and public interest perspective, and Railways shall endeavour to convey its decision thereon expeditiously. It is also agreed that Railways shall not be liable in any manner on account of grant or otherwise of such approval and that such approval or denial thereof shall not in any manner absolve the SPD from any liability or obligation under this Agreement.

For the purposes of this Clause 5.4.2:

(a) the expression “acquirer”, “control” and “person acting in concert” shall have the meaning ascribed thereto in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeover) Regulations, 2011 or any statutory re-enactment thereof as in force as on the date of acquisition of Equity, or the control of the Board of Directors, as the case may be, of the SPD;

(b) the indirect transfer or control of legal or beneficial ownership of Equity shall mean transfer of the direct or indirect beneficial ownership or control of any company or companies whether in India or abroad which results in the acquirer acquiring control over the shares or voting rights of shares of the SPD; and

(c) power to appoint, whether by contract or by virtue of control or acquisition of shares of any company holding directly or through one or more companies (whether situate in India or abroad) the Equity of the SPD, not less than half of the directors on the Board of Directors of the SPD or of any company, directly or indirectly whether situate in India or abroad, having ultimate control of not less than 25% (twenty five per cent) of the Equity of the SPD shall constitute acquisition of control, directly or indirectly, of the Board of Directors of the SPD.

5.5 Obligations relating to employment of foreign nationals

The SPD acknowledges, agrees and undertakes that employment of foreign personnel by the SPD and/or its contractors and their sub-contractors shall be subject to grant of requisite regulatory permits and statutory approvals including employment/residential visas and work permits, if any required, and the obligation to apply for and obtain the same shall and will always be of the SPD and, notwithstanding anything to the contrary contained in this Agreement, refusal of or inability to obtain any such permits and statutory approvals by the SPD or any of its Contractors or sub-contractors shall not constitute Force Majeure Event, and shall not in any manner excuse the SPD from the performance and discharge of its obligations and liabilities under this Agreement.

5.6 Obligations relating to employment of trained personnel

The SPD shall ensure that the personnel engaged by it in the performance of its obligations under this Agreement are at all times properly trained for their respective functions in accordance with the Applicable Laws and also the applicable norms as may be notified by Railways from time to time.

5.7 Obligations relating to medical aid

For providing emergency medical aid to Users, the SPD shall, at each Station, set up and operate a medical aid post equipped to render first aid and to assist in accessing emergency medical aid from hospitals in the vicinity.

5.8 Obligations relating to aesthetic quality of the rooftop solar project

The SPD shall maintain a high standard in the appearance and aesthetic quality of the rooftop solar project and achieve integration of the Solar Rooftop Power System with the character of the surrounding landscape through both appropriate design and sensitive management of all visible elements. The SPD shall engage professional architects and town planners of repute for ensuring that the design of the rooftop solar project meets the aforesaid aesthetic standards.

5.9 Obligations relating to noise control

The SPD shall take all such measures as may be necessary in accordance with Applicable Laws and Good Industry Practice to control and mitigate the noise arising from the rooftop solar project and its impact on Users and the neighbourhood.

5.10 Branding of rooftop solar project

The rooftop solar project or any part thereof shall not be branded in any manner to advertise, display or reflect the name or identity of the SPD or its shareholders.

ARTICLE 6

OBLIGATIONS OF RAILWAYS

6.1 Obligations of Railways

6.1.1 Railways shall, at its own cost and expense, undertake, comply with and perform all its obligations set out in this Agreement or arising hereunder.

6.1.2 Railways agrees to provide support to the SPD and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and the Applicable Laws, the following:

(a) For harnessing solar power by Railways for their own use, by installing solar power units, through developer mode, grant permission to the selected developer for use of rooftop spaces of Railways buildings/stations/platforms/sheds/workshops or any other suitable rooftop space without any charge, whatsoever it maybe, with utilization of complete energy by Railways through long term Power Purchase Agreement (for the unit cost of solar power) for a period of 25 years. The developer to be selected through open bidding process.

(b) Purchase one hundred percent (100%) of the Solar Power generated by the System and made available by the Solar Company of the Installed Capacity at the Delivery Point during each relevant month of the Term

(c) upon written request from the SPD, and subject to the SPD complying with Applicable Laws, provide reasonable support and assistance to the SPD in procuring Approvals required from any Government Instrumentality for implementation and operation of the Project;

(d) allow the SPD to operate the Project as a must-run generating facility, subject to Law and the provisions of this Agreement;

(e) ensure that it shall evacuate and accept all the Delivered Energy up to the Contracted capacity at all times from the Project;

(f) Provide Auxiliary Power to the SPD for the projects development, operation and maintenance purposes. The Railways will have the right to charge the SPD reasonable charges for the electricity connection and the supply of power which may be provided to the SPD.

(g) pay the SPD for Deemed Generation (wherever applicable)

(h) Enter into net metering agreement with concerned Distribution licensee.

(i) make regular monthly payments to the SPD for the solar power generated and sold to Railways at the tariff decided under this agreement;

(j) not initiate or conduct activities that it knows or reasonably should know may damage, impair or otherwise adversely affect the Project exposure or its function (including activities that may adversely affect the exposure of the Project to sunlight), without the SPD's prior written consent, which consent shall not be unreasonably withheld or delayed.

(k) provide (upon written request from the SPD,) reasonable assistance to the SPD in

obtaining access to all necessary infrastructure facilities and utilities, including water and electricity at rates and on terms no less favourable to the SPD than those generally available to Railways receiving substantially equivalent services;

(l) Ensure that no barriers are erected or placed on or about the Project by any Government Agency/ Instrumentality or any persons claiming through or under it, except for reasons of Safety Requirements, Emergency, national security, or law and order;

(m) assist the SPD in procuring police assistance for removal of trespassers and security on or at the Project;

(n) not do or omit to do any act, deed or thing which may in any manner violates any of the provisions under this Agreement;

(o) support, cooperate with and facilitate the Project in the implementation and operation of the Project in accordance with the provisions of this Agreement;

(p) upon written request from the SPD and subject to the provisions of Clause 5.5, provide reasonable assistance to the SPD and any expatriate personnel of the SPD or its Contractors to obtain applicable visas and work permits for the purposes of discharge by the SPD or its Contractors their obligations under this Agreement; and

(q) Railways will notify in written within 07 working days after the receipt of the notice for Phased Commissioning referred to in Section 14.5above either:

- propose changes to dates for Commissioning of one or more Units; or
- agree to the dates for Phased Commissioning proposed by the SPD

i. provided that Railways will be entitled to propose changes to the SPD's dates for Commissioning on the ground that, in accordance with Prudent Utility Practices, that Railways' Distribution Grid cannot accommodate Electricity from one or more Units identified by the SPD;

ii. provided further that Railways will not have the right to defer the date(s) beyond a period of thirty (30) days from the date(s) mentioned in the notice.

(r) Appoint/ Nominate [Chief] Electrical Inspector to conduct pre commissioning test to ensure and certify the Safety Requirements. The safety certificate to this effect will be issued with the approval of EIG.

6.2 Obligations relating to Inter-Connection

6.2.1 In consideration of this Agreement and the applicable charges, the covenants and warranties on the part of the SPD herein contained, Railways, in accordance with the terms and conditions set forth herein, hereby grants to the SPD, commencing from [180 (one hundred and eighty days)] days prior to Scheduled Commercial Operation Date, leave and rights in respect of the land/ rooftops owned by Railways for the purpose of connecting the rooftop solar project to [nearest existing evacuation point] ("rooftop"), and for no other purpose whatsoever.

6.2.2 In the event of delay for any reason other than Force Majeure or breach of this Agreement by the SPD, and only if the Railway Electrical Engineer determines that the SPD is unable to achieve COD on account of the delay or denial of Right of Way to any

part of the rooftop, Railways shall pay to the SPD, Damages in a sum calculated at the rate of Rs. [1,000] per day of delay and until such Right of Way is granted.

6.2.3 The access and Right of Way/ permission to use rooftop granted by this Agreement to the SPD shall always be subject to existing rights of way. Railways will carry out or cause to be carried out under its supervision, necessary alterations / additions for the take-off of the rooftop solar project at [*insert name of station*] at the cost of the SPD.

6.2.4 It is expressly agreed that the access and Right of Way granted hereunder shall terminate automatically and forthwith, without the need for any action to be taken by Railways to terminate the permission to use the rooftop, upon Termination of this Agreement for any reason whatsoever.

6.2.5 The Railways shall apply and sign the Net Metering agreement with the utility.

6.3 Maintenance obligations prior to Appointed Date

During the Development Period, Railways shall maintain the roads, pathways and rooftops along or near the Project, at its own cost and expense, so that its safety are at no time materially inferior as compared to its condition 7 (seven) days prior to the last date for submission of the Bid, and in the event of any material deterioration or damage other than normal wear and tear, undertake repair thereof, or pay to the SPD the cost and expense, as determined by the Railway Electrical Engineer, for undertaking such repair after the Appointed Date. For the avoidance of doubt, Railways shall undertake only routine maintenance during the Construction Period, and it shall undertake special repairs only for ensuring safe operation of the roads, pathways and rooftops along the rooftop solar project, or in the event of excessive deterioration or damage caused due to unforeseen events such as floods or torrential rain.

ARTICLE 7

REPRESENTATIONS AND WARRANTIES

7.1 Representations and warranties of the SPD

The Solar Power Developer represents and warrants to the Railways that:

(a) it is duly organised and validly existing under the laws of India, and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;

(b) it has taken all necessary corporate and other actions under Applicable Laws to authorize the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;

(c) it has the financial standing and capacity to undertake the Project in accordance with the terms of this Agreement; this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement will be legally valid, binding and enforceable obligations against it in accordance with the terms hereof; However, that the enforcement of the rights and remedies herein is subject to the Applicable Laws and Change in Laws

(d) it is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising there under including any obligation, liability or responsibility hereunder;

(e) the information furnished in the Bid and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement;

(f) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its Memorandum and Articles of Association {or those of any member of the Consortium} or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;

(g) it has no such knowledge of any governmental approval/s (other than any governmental approvals which have been previously obtained or disclosed in writing to the other Party) which are required in connection with the due authorization, execution and delivery of this Agreement by it or the performance by it of its obligations hereunder which such it has reason to believe that it will be unable to obtain in due course;

(h) there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;

(i) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists

which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;

(j) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a material adverse effect on its ability to perform its obligations under this Agreement;

(k) it shall at no time undertake or permit any Change in Ownership except in accordance with the provisions of Clause 5.4; and that the {selected bidder/ Consortium Members}, together with {its/their} Associates, hold not less than 51% (fifty one per cent) of its issued and paid up Equity as on the date of this Agreement; and that no Member of the Consortium whose technical and financial capacity was evaluated for the purposes of pre-qualification and short-listing in response to the Request for Qualification shall hold less than 26% (twenty-six per cent) of such Equity during the Development Period;

(l) {the selected bidder/ Consortium Members and its/their} Associates have the financial standing and resources to fund the required Equity and to raise the debt necessary for undertaking and implementing the Project in accordance with this Agreement;

(m) {the selected bidder/ each Consortium Member} is duly organised and validly existing under the laws of the jurisdiction of its incorporation, and is entering into this Agreement with the Railways pursuant to the Letter of Award, and has agreed to and unconditionally accepted the terms and conditions set forth in this Agreement;

(n) all its rights and interests in the Project shall pass to and vest in Railways on the Transfer Date free and clear of all liens, claims and Encumbrances, without any further act or deed on its part or that of Railways,

(o) no representation or warranty by it contained herein or in any other document furnished by it to Railways or to any Government Instrumentality in relation to Approvals, contained or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;

(p) no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the SPD or entering into this Agreement or for influencing or attempting to influence any officer or employee of Railways in connection therewith; and

(q) all information provided by the {selected bidder/ Consortium Members} in response to the Request for Qualification and Request for Proposal or otherwise, is to the best of its knowledge and belief, true and accurate in all material respects.

7.2 Representations and warranties of Railways

Railways represent and warrants to the Solar Power Developer that:

(a) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement;

(b) it has taken all necessary actions under the Applicable Laws to authorise the execution, delivery and performance of this Agreement;

(c) it has the financial standing and capacity to perform its obligations under this Agreement;

(d) this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;

(e) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on Railways' ability to perform its obligations under this Agreement;

(f) it has complied with Applicable Laws in all material respects; and

(g) it has good and valid right to the Site, and has power and authority to grant access as well as use of the site for solar rooftop development and generation till the terms of the agreement are enforceable.

7.3 Disclosure

In the event that any occurrence or circumstance comes to the attention of either Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Party of the same. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any right, remedy or obligation of either Party under this Agreement.

ARTICLE 8

DISCLAIMER

8.1 Disclaimer

8.1.1 The SPD acknowledges that prior to the execution of this Agreement, the SPD has, after a complete and careful examination, made an independent evaluation of the Request for Qualification, Request for Proposal, Power Purchase Agreement, Scope of the Project, Specifications and Standards, Site, existing structures, local conditions, and all information provided by Railways or obtained procured or gathered otherwise, and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder. Railways makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of any assessment, assumption, statement or information provided by it and the SPD confirms that it shall have no claim whatsoever against Railways in this regard.

8.1.2 The SPD acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in Clause 8.1.1 above and hereby acknowledges and agrees that Railways shall not be liable for the same in any manner whatsoever to the SPD, {the Consortium Members and their} Associates or any person claiming through or under any of them.

8.1.3 The Parties agree that any mistake or error in or relating to any of the matters set forth in Clause 8.1.1 above shall not vitiate this Agreement, or render it voidable.

8.1.4 In the event that either Party becomes aware of any mistake or error relating to any of the matters set forth in Clause 8.1.1 above, that Party shall immediately notify the other Party, specifying the mistake or error; provided however, that a failure on part of Railways to give any notice pursuant to this Clause 8.1.4 shall not prejudice the disclaimer of Railways contained in Clause 8.1.1 and shall not in any manner shift to Railways any risks assumed by the SPD pursuant to this Agreement.

8.1.5 Except as otherwise provided in this Agreement, all risks relating to the Project shall be borne by the SPD and Railways shall not be liable in any manner for such risks or the consequences thereof.

ARTICLE 9

PERFORMANCE GUARANTEE/SECURITY & GENERATIONPERFORMANCE GUARANTEE

9.1 Performance Guarantee/Security

9.1.1 The SPD shall, for the performance of its obligations hereunder during the development, construction and commissioning period, provide to Railways no later than 30 (thirty) days from the date of this Agreement, an irrevocable and unconditional guarantee from a Bank for a sum of Rs. 20 Lakh per MW which has already been decided in the form set forth in Schedule-G (the "Performance Security"). Until such time the Performance Security is provided by the SPD pursuant hereto and the same comes into effect, the Bid Security shall remain in force and effect, and upon such provision of the Performance Security pursuant hereto, Railways shall release the Bid Security to the SPD.

9.1.2 Notwithstanding anything to the contrary contained in this Agreement, in the event Performance Guarantee/Security is not provided by the SPD within a period of 30 (thirty) days from the date of this Agreement, Railways may encash the Bid Security and appropriate the proceeds thereof as damages, and thereupon all rights, privileges, claims and entitlements of the Solar Rooftop Power Developer SPD under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the SPD, and this Agreement shall be deemed to have been terminated by mutual agreement of the Parties.

9.2 Appropriation of Performance Guarantee/Security

Upon occurrence of a SPD Default or failure to meet any Conditions Precedent, Railways shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the relevant amounts from the Performance Security as Damages for such SPD Default or failure to meet any Condition Precedent. Upon such encashment and appropriation from the Performance Security, the SPD shall, within 30 (thirty) days thereof, replenish, in case of partial appropriation, to its original level the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, and the SPD shall, within the time so granted, replenish or furnish fresh Performance Security as aforesaid failing which Railways shall be entitled to terminate this Agreement in accordance with Article 28. Upon replenishment or furnishing of a fresh Performance Security, as the case may be, as aforesaid, the SPD shall be entitled to an additional Cure Period of 90 (ninety) days for remedying the SPD Default or to meet any Condition Precedent, and in the event of the SPD not curing its default or meeting such Condition Precedent within such Cure Period, Railways shall be entitled to encash and appropriate such Performance Security as Damages, and to terminate this Agreement in accordance with Article 28.

9.3 Release of Performance Security

The Performance Security shall remain in force and effect for an initial period of [1 (one)] year from the Appointed Date and the validity thereof shall be renewed at least [30 (thirty)] days prior to its expiry till [3 (three)] months from COD. Railways shall release the Performance Security forthwith upon expiry of the aforesaid 3 (three) months from the COD; provided however, that the Performance Security shall not be released if the SPD is in breach of this Agreement. For the avoidance of doubt, the Parties agree that no payments due to the SPD under this Agreement shall be withheld by the Railways on account of the Performance Security created hereunder, save and except the Damages or other amounts which are to be appropriated in accordance with the provisions of this Agreement

Performance Generation Guarantee

The Minimum CUF which the solar power provider will have to provide during first year of operations will not be the lower than 16% or the Normative CUF provided by the State Tariff Order. The maximum Deration in generation allowed over the first ten years of operation is 10% (annual deration to be carried out on a written down method basis) and over the life of the project is 20%

Post COD and upon satisfactory commissioning and normal operation of the solar rooftop project for 3 months, Railways shall return the Performance Guarantee for Construction Period and in exchange of that retain a Performance Guarantee for generation of [Rs. 5 lakh] per MW.

The Performance Guarantee for generation shall remain in force and effect for an initial period of [3 (three)] years. Railways shall release the Performance guarantee forthwith upon expiry of the aforesaid; provided however, that the Performance Guarantee shall not be released if the SPD is in breach of this Agreement.

The Performance Guarantee will come into effect if for any contract year, it is found that the SPD has not been able to generate minimum energy as outlined in the Minimum CUF, on account of reasons solely attributed to the SPD, such shortfall in performance shall make SPD liable to pay a compensation equivalent to the higher of the following:

- shortfall in generation vis a vis Minimum CUF multiplied by Tariff agreed in this agreement.
- the penalty accruing to Railways for not being able to meet its Renewable Purchase Obligation/ cost incurred for buying the shortfall in RE through RECs and the cost incurred by Railways for procuring an equivalent amount of energy from the distribution utility.

9.5 References to Performance Security and Performance Guarantee

References to Performance Security occurring in this Agreement for and in respect of any period prior to the delivery of the Performance Security by the SPD to the Railways, or in respect of any period subsequent to the expiry or release thereof, as the case may be, shall be construed solely for the purposes of calculating the amount of Damages payable by the SPD, and the amount so determined shall be appropriated from the Bid Security or Deemed Performance Security, as the case may be.

ARTICLE 10

RIGHT OF WAY

10.1 The Site

Railways will grant to the SPD and its representatives, for the Term of the Agreement, a non-exclusive right-of-way for vehicular and pedestrian ingress and egress to the Relevant Premises, and to the site of the solar rooftop facility installation to be established by the SPD on each of the Relevant Premises to the extent possible and required for the safe and efficient operation of the plant without any detrimental effect to the safety and security of the premises (the "Access Rights").

Railways will give access to and permission to initiate work on each of the Relevant Premises no later than sixty (60) days from the Effective date of this agreement.

The site of the Project shall comprise the real estate described in Schedule B and in respect of which the Right of Way shall be provided and granted by Railways to the SPD in accordance with this Agreement (the "**Project**").

For the avoidance of doubt, it is hereby acknowledged and agreed that references to the Site shall be construed as references to the real estate required for the Project as set forth in Schedule A.

10.2 Access and Right of Way

10.2.1 Railways hereby grants to the SPD access to the Site for carrying out any surveys, investigations and analysis that SPD may deem necessary during the Development Period,it being expressly agreed and understood that Railways shall have no liability whatsoever in respect of survey and investigations carried out or work undertaken by the SPD on or about the Site pursuant hereto in the event of Termination or otherwise.

10.2.2 In consideration of this Agreement and the covenants and warranties on the part of the SPD herein contained, Railways, in accordance with the terms and conditions set forth herein, hereby grants to the SPD, commencing from the Appointed Date, the leave and the right in respect to the site/s (along with any rooftop area, storage space, location for equipment placement) comprising the Site which is described, delineated and shown in Schedule B hereto (the "**Relevant Premises**"), on an "as is where is" basis, free of any Encumbrances, to develop, operate and maintain the said Relevant Premises, together with all and singular rights, liberties, privileges, easements and appurtenances whatsoever to the said Premises, or any part thereof belonging to or in any way appurtenant thereto or enjoyed therewith, for the duration of the Agreement Period and, for the purposes permitted under this Agreement, and for no other purpose whatsoever.

10.2.3 It is expressly agreed that the access to the site/s and the right to develop project on the site/s granted hereunder shall terminate automatically and forthwith, without the need for any action to be taken by Railways to terminate the said access, upon the Termination of this Agreement for any reason whatsoever. For the avoidance of doubt, the Parties expressly agree that notwithstanding any temporary or permanent structures erected on the Site by the SPD or its partners, the right of access in respect of the Site shall automatically terminate, without any further act of the Parties, upon Termination of this Agreement.

10.2.4 The SPD hereby irrevocably appoints Railways (or its nominee) to be its true and lawful attorney, to execute and sign in the name of the SPD a transfer or surrender of the right of access to site/s granted hereunder at any time after the Agreement Period has expired or

has been terminated earlier in terms hereof, a sufficient proof of which will be the declaration of any duly authorised officer of Railways, and the SPD consents to it being registered for this purpose.

10.3 Procurement of the Site

10.3.1 Pursuant to the notice specified in Clause 4.1.2, Railways Representative and the SPD shall, on a mutually agreed date and time, inspect the Site and prepare a memorandum containing an inventory of the Site including the vacant and unencumbered rooftop space, assets and equipment on the rooftops, and any other immovable property on or attached to the Site (rooftops). Such memorandum shall have appended thereto an appendix (the "Appendix") specifying in reasonable detail those parts of the Site to which vacant access and Right of Way has not been granted to the SPD. Signing of the memorandum, in two counterparts (each of which shall constitute an original), by the authorised representatives of the Parties shall, subject to the provisions of Clause 10.2.2, be deemed to constitute a valid access and Right of Way to the SPD for free and unrestricted use and development of the vacant and unencumbered Site during the Agreement Period under and in accordance with the provisions of this Agreement and for no other purpose whatsoever. For the avoidance of doubt, it is agreed that valid access and Right of Way with respect to the parts of the Site as set forth in the Appendix shall be deemed to have been granted to the SPD upon vacant access thereto being provided by Railways to the SPD.

10.3.2 Railways shall make best efforts to procure and grant, no later than [60 (sixty)] days from the Appointed Date, the Right of Way to the SPD in respect of all access and right of way to the site/s included in the Appendix, and in the event of delay for any reason other than Force Majeure or breach of this Agreement by the SPD, it shall pay to the SPD damages in a sum calculated at the rate of Rs.[1,000 (Rupees one thousand)] per day for, commencing from the 91st (ninety first) day of the Appointed Date and until such Right of Way is procured with a limit of upto 20 percent of the bid security.

Upon receiving Right of Way, the SPD will define the need to undertake construction of any specific infrastructure which needs to be developed and include that as under the Appendix as well. The SPD shall submit a plan of the required construction work to the Railway Electrical Engineer, get the Railway Electrical Engineers sanction for the same and complete the infrastructure development Works thereon within a reasonable period (proposed by the SPD and sanctioned by the Railway Electrical Engineer) in accordance with Good Industry Practices. For the avoidance of doubt, it is expressly agreed that Construction Works on all infrastructure for which Right of Way is granted within 60 (sixty) days of the Appointed Date shall be completed before the Project Completion Date. It is also expressly agreed that completion of the respective Construction Works within the time determined by the Railway Electrical Engineer hereunder shall be deemed to be Project Milestones, for the purposes of levy and recovery of Damages under and in accordance with the provisions in Article 20.

10.4 Site to be free from Encumbrances

Subject to the provisions of Clause 10.3, the Site shall be made available by Railways to the SPD pursuant hereto free from all Encumbrances and occupations and without the SPD being required to make any payment to Railways on account of any costs, compensation, expenses and charges for the acquisition and use of such Site for the duration of the Agreement Period, except insofar as otherwise expressly provided in this Agreement. For the avoidance of doubt, it is agreed that existing rights of way, easements, privileges, liberties and appurtenances to the Premises shall not be deemed to be Encumbrances. It is further agreed that the SPD accepts and undertakes to bear any and all risks arising out of the inadequacy or physical condition of the Site.

10.5 Protection of Site from encroachments

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

10.6 Special/temporary right of way

The SPD shall bear all costs and charges for any special or temporary right of way required by it in connection with access to the Site. The SPD shall obtain at its own cost such facilities on or outside the Site as may be required by it for the purposes of Project and the performance of its obligations under this Agreement.

10.7 Access to Railways and the Railway Electrical Engineer

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

10.8 System Disruptions due to site access

a. Unavailability of Premises

If, for reasons other than the SPD breach of its obligations herein, the SPD ceases to have access rights to the Premise/s for up to three months, Railways shall provide alternate site/s to set-up the operations within 2 weeks of the date of disruptions and for the interim provide compensation under the Deemed Generation clause and pay cost of solar generation lost to the SPD

If, for reasons other than the SPD breach of its obligations herein, the SPD ceases to have access rights to the Premises for the long term (3 months or more) as necessary to operate and maintain the System prior to the Expiration Date, then the SPD will be entitled to terminate the Agreement. Railways will pay the Buyback Price of the system to the SPD.

b. Roof Repair and other System Disruptions

In the event that (a) Railways repairs the Premises' roof for any reason not directly related to damage, if any, caused by the System, and such repair requires the partial or complete temporary disassembly or movement of the System, or(b)any act or omission of Railways or Railways' employees, Affiliates, agents or subcontractors results in a disruption or outage in System production, and such events attributable to Railways except Force Majeure, then, in either case, Railways will (i) pay the SPD for all work required by the SPD to disassemble or move the System and then assemble the system and (ii)continue to make all payments for the Solar Power during such period of System disruption (the "**Disruption Period**") in the form of deemed generation.

In the event that (a) Railways repairs the Premises' roof for any reason directly related to damage, if any, caused by the System/SPD, and such repair requires the partial or complete temporary disassembly or movement of the System, or(b)any act or omission of SPD or its employees, Affiliates, agents or subcontractors results in a disruption or outage in System production, and such events not attributable to Railways/ Force Majeure, then, in either case SPD will(i)pay the Railways for all work required by Railways repair of roof; (ii) not be eligible for

deemed generation and (iii) this period will be counted during accounting for calculation of CUF and evaluation of whether the system met the minimum performance requirements or the Normative CUF.

The SPD will inform about the disruption or outage in System production, for reasons attributable to Railways in writing with date and time of such occurrence, and Railways' liability will start from the date of intimation of disruption or outage in system production, on account of purchaser.

In the event that Railways fails to ensure adequate space for solar equipment to ensure that other structures do not partially or wholly shade any part of the Project and if such shading occurs, the SPD may apply for Deemed Generation furnishing the calculation for loss in generation due to such shading supported by the relevant data, which will be approved by Railways within one month of submission failing which the SPD will claim provisional deemed generation till the issue is finally settled.

10.9 Access to Premises

The SPD will give the Railways a schedule and reasonable written notice before any entry onto the Relevant Premises by the SPD's employees, agents or contractors. Railways will make available to the SPD access to the Facility Installation and the Relevant Premises for the purposes set below. Notwithstanding anything to the contrary in this Agreement, the SPD shall be permitted to access the Relevant Premises twenty-four (24) hours a day, seven (7) days a week for emergency purposes, as reasonably determined by the SPD. Within twenty-four (24) hours of such emergency access, the SPD shall provide the Railways with a written explanation of the nature of the emergency.

10.10 Installation, Operation and Ownership of the Facility

a) Railways will also authorize the SPD to use the Relevant Premises and the Site only for the purposes of installation, operation and maintenance of the solar power generation facility installation. The SPD undertakes not to use the Site for any purpose other than as aforesaid.

b) The SPD shall not install at any of the Relevant Premises, Facility Installations exceeding the capacity of such Relevant Premises as connected to the Electricity distribution system of Railways existing on the date of this Agreement.

c) The SPD shall be solely responsible for operation and maintenance of the Facility Installations (subject, however, to the obligations and responsibilities of the Railways herein), including without limitation the obligation to promptly make or pay (as determined by the Railways) for any repairs to any part or all of the Site to the extent directly caused by the SPD, its employees, agents, contractors or subcontractors, and shall, at all times during the Term, maintain the Facility Installations in good operating condition. The SPD shall also be responsible for maintaining the structural integrity of the rooftops and ensure that any activity which may result in water seepage occurs.

d) The SPD will also undertake cleaning of the solar systems at regular intervals, however the SPD will not use water jets/ pressurized hoses for the cleaning as the water may enter the internal circuitry laid down around these premises.

e) The SPD shall bear all risk of loss with respect to the Facility Installations and shall have full responsibility for its operation and maintenance in compliance with all the Laws and Approvals. The SPD shall coordinate in advance all such repair and maintenance work with the manager of the relevant buildings comprising the Site or his/her designee so as not to restrict parking access or interfere with scheduled activities on the relevant

building comprising the Site. Upon such request for repair and maintenance work, the Railways shall respond to such request within five (5) Business Days. If the Railways does not respond to such request within such five (5) Business Days period, such request shall be deemed approved by the Railways. All such work shall be diligently prosecuted to completion to the end that such work shall not remain in a partly finished condition any long than is necessary for its completion.

f) Notwithstanding the Facility Installation's presence as a fixture on the Relevant Premises, the Railways shall not cause or permit any interference with the isolation of, and access to sunlight of, the Facility as such access exists as of the Effective Date.

g) The SPD acknowledges and agrees that, notwithstanding that the Facility Installations are a fixture on the Relevant Premises, the SPD shall have no right, title or interest in the Relevant Premises except as that of a siting of rooftop solar systems as per the terms set out in this Agreement.

10.11 Covenants

a) Security: The SPD shall make its own arrangement for and take reasonable measures and shall be solely responsible for security of the Facility Installations, including commercially reasonable monitoring of the Site's alarms, if any.

b) The Railways will not initiate or conduct activities that it knows or reasonably should know may damage, impair or otherwise adversely affect the Facility Installations or its function (including activities that may adversely affect the exposure of the Facility Installation to sunlight), without the SPD's prior written consent, which consent shall not be unreasonably withheld or delayed. SPD should either accept or deny in writing any such request within 15 days.

ARTICLE 11

UTILITIES

11.1 Existing utilities and roads

Notwithstanding anything to the contrary contained herein, the SPD shall ensure that the respective entities owning the existing rooftops, right of way or utilities on, under or above the Site are enabled by it to keep such utilities in continuous satisfactory use, if necessary, by providing suitable measures

The SPD shall, subject to Applicable Laws and with assistance of Railways, undertake shifting of any utility including electric lines, water pipes and telephone cables, to an appropriate location or alignment within or outside the Site if and only if such utility causes or shall cause a material adverse effect on the construction, operation or maintenance of the Project. The cost of such shifting shall be borne by SPD.

ARTICLE 12

CONSTRUCTION OF THE PROJECT

12.1 Obligations prior to commencement of construction

Prior to commencement of Construction Works, the SPD shall:

(a) submit to Railways and the Railway Electrical Engineer its detailed project plan including the system design, construction methodology and procedures, quality assurance procedures, and the procurement, engineering and construction time schedule for completion of the facility

(b) appoint its representative duly authorised to deal with Railways in respect of all matters under or arising out of or relating to this Agreement;

(c) undertake, do and perform all such acts, deeds and things as may be necessary or required before commencement of design, development and construction work under and in accordance with this Agreement, the Applicable Laws and Applicable Permits; and

(d) acquire and maintain in effect all approvals and clearances in order to enable it to perform its obligations under the Agreement. Railways will render all reasonable assistance to the SPD to enable the latter to obtain such Approvals on or before the Scheduled COD without any legal obligation on the part of Railways.

- Governmental Approvals: While providing the Installation Work, the Solar Power and System Operations, the SPD will obtain and maintain and secure all Governmental Approvals required to be obtained and maintained and secured by the SPD and to enable the SPD to perform such obligations.

- Interconnection Requirements: The interconnection of the rooftop solar system with the network of the Railways will be made as per the technical standards for connectivity of distributed generated resources regulations as may be notified by the competent authority.

(e) make its own arrangements for quarrying of materials needed for the Project under and in accordance with the Applicable Laws and Applicable Permits.

12.2 Drawings

In respect of the SPD obligations relating to the Drawings of the Project, the following shall apply:

(a) the SPD shall prepare and submit, with reasonable promptness and in such sequence as is consistent with the Project Completion Schedule, 3 (three) copies each of all Drawings to the Railway Electrical Engineer for review within 30 days of the Effective date;

(b) by submitting the Drawings for review to the Railway Electrical Engineer, the SPD shall be deemed to have represented that it has determined and verified that the design and engineering, including field construction criteria related thereto, are in conformity with the Scope of the Project and the Specifications and Standards;

(c) within 10 (ten) days of the receipt of the Drawings, the Railway Electrical Engineer shall review the same and submit the Drawings along with its observations to Railways and the SPD with particular reference to their conformity or otherwise with the Scope of the Project and the Specifications and Standards. Within 10 (ten) days of the receipt of the comments from the Railway Electrical Engineer, Railways may review the same and convey its observations to the SPD and the Railway Electrical Engineer with particular reference to their conformity or otherwise with the Scope of the Project and the Specifications and Standards. The SPD shall not be obliged to await the observations of Railways on the Drawings submitted pursuant hereto beyond the said 20 (twenty) days period and may begin or continue Construction Works at its own discretion and risk;

if the aforesaid observations of Railways and/or the Railway Electrical Engineer indicate that the Drawings are not in conformity with the Scope of the Project or the Specifications and Standards, such Drawings shall be revised by the SPD and resubmitted to the Railway Electrical Engineer and Railways for review within 7 (seven) days of receipt of observations of Railways and/or the Railway Electrical Engineer. The Railway Electrical Engineer shall give its observations, if any, within 5 (five) days of receipt of the revised Drawings, and within 5 (five) days of the receipt of the comments from the Railway Electrical Engineer, if any, Railways shall review the same and convey its observations, if any, to the SPD and the Railway Electrical Engineer;

(e) no review and/or observation of the Railway Electrical Engineer and/or Railways and/or its failure to review and/or convey its observations on any Drawings shall relieve the SPD of its obligations and liabilities under this Agreement in any manner nor shall Railways be liable for the same in any manner;

(f) with the COD, the SPD shall furnish to Railways and the Railway Electrical Engineer a complete set of as-built Drawings, in 2 (two) hard copies and in pen drive form or in such other medium as may be acceptable to Railways, reflecting the Solar Rooftop Power System as actually designed, engineered and constructed, including an as-built survey illustrating the layout of the Solar Rooftop Power System and setback lines, if any, of the buildings and structures forming part of Project Facilities.

12.3 Construction of the Solar Rooftop Power System

On or after the Appointed Date, the SPD shall undertake the construction of the Solar Rooftop Power System as specified in Schedule A and Schedule B, and in conformity with the Specifications and Standards set forth in Schedule C. The SPD shall commission the project as per the provision under Article 14 and the SPD agrees and undertakes that construction of the Solar Rooftop Power System shall be completed on or before the Scheduled Completion Date.

12.3.1 The SPD shall construct the Solar Rooftop Power System with the objective of commissioning the project by the proposed commissioning date (9 months from Appointed date) or meet the commissioning milestones as set out in the phased commissioning section, which would all be laid down in a mutually agreed project completion schedule. In the event that the SPD fails to achieve any Project Milestone within a period of 90 (ninety) days from the date set forth for such milestone in project completion schedule, unless such failure has occurred due to Force Majeure or for reasons solely attributable to Railways, it shall pay Damages to Railways in a sum calculated at the rate of 0.2% (zero point two per cent) of the amount of Performance Security for delay of each day until such milestone is achieved; with the provision that

these damages shall be limited to 20 percent of the bid security and provided that if any or all project milestones are extended in accordance with the provisions of this Agreement.[2]

12.3.3 In the event Project Completion date achieved on or before the Scheduled Completion Date, the Damages paid under this Clause 12.3.2 shall be refunded by Railways to the SPD, but without any interest thereon. For the avoidance of doubt, it is agreed that recovery of Damages under this Clause 12.3.2 shall be without prejudice to the rights of Railways under this Agreement, including the right of Termination thereof.

12.3.4 In the event that the Solar Rooftop Power System is not completed within [180 (one eighty)] days from the Scheduled Completion Date, unless the delay is on account of reasons solely attributable to Railways or due to Force Majeure, Railways shall be entitled to terminate this Agreement.

[2††] Please insert all the relevant particulars forming part of the Drawings, which the Government will approve, such as design for interconnection, integration of signalling system etc.

ARTICLE 13

MONITORING OF CONSTRUCTION

13.1 Monthly progress reports

During the Construction Period, the SPD shall, no later than [7 (seven)] days after the close of each month, furnish to Railways and the Railway Electrical Engineer a monthly report on progress of the Development Works and shall promptly give such other relevant information as may be required by Railways and/or the Railway Electrical Engineer.

13.2 Inspection

During the Development Period, the Railway Electrical Engineer shall inspect the Solar Rooftop Power System at least once a quarter and make a report of such inspection (the "**Inspection Report**") stating in reasonable detail the defects or deficiencies, if any, with particular reference to the Scope of the Project and Specifications and Standards. It shall send a copy of the Inspection Report to Railways and the SPD within 7 (seven) days of such inspection and upon receipt thereof, the SPD shall rectify and remedy the defects or deficiencies, if any, stated in the Inspection Report. Such inspection or submission of Inspection Report by the Railway Electrical Engineer shall not relieve or absolve the SPD of its obligations and liabilities hereunder in any manner whatsoever. Without prejudice to the above, Railways may undertake inspection of the Development Works at any time.

13.3 TESTING PROCEDURES

The SPD and Railway Electrical Engineer shall develop suitable testing procedures one (one) month before the earlier of Scheduled Commercial Operation Date or, where Phased Commissioning is to be undertaken by SPD, the date proposed by SPD for Commissioning of the first Unit. Such procedures shall take into consideration relevant standards. The procedures mutually agreed by SPD and Railway Electrical Engineer in writing shall be deemed to be incorporated in this Agreement as Schedule D and shall form part of this Agreement.

For determining that the Construction Works conform to the Specifications and Standards, the Railway Electrical Engineer shall require the SPD to carry out or cause to be carried out tests, at such time and frequency and in such manner as may be specified by the Railway Electrical Engineer from time to time, in accordance with the programme submitted by the SPD for quality assurance. The SPD shall, with due diligence, carry out or cause to be carried out all the tests in accordance with the instructions of the Railway Electrical Engineer and furnish the results thereof to the Railway Electrical Engineer. For the avoidance of doubt, the costs to be incurred on any test including tests undertaken for determining the rectification of any defect or deficiency in construction shall be borne solely by the SPD.

13.3.1 In the event that results of any tests conducted under this Clause 13.3 establish any defects or deficiencies in the Development Works, the SPD shall carry out remedial measures and based on the remedial actions taken furnish a report to the Railway Electrical Engineer in this behalf. The Railway Electrical Engineer shall require the SPD to carry out or cause to be carried out these tests again to determine that such remedial measures have brought the development Works into compliance with the Specifications and Standards, and the procedure set forth in this Clause 13.3 shall be repeated until such work does not conform to the Specifications and Standards.

13.4 Delays during Development

Without prejudice to the provisions of Clause 13.3.2, if the SPD does not achieve any of the Project Milestones or the Railway Electrical Engineer shall have reasonably determined that the rate of progress of development Work is such that the Solar Rooftop Power System is not likely to be completed by the Scheduled Completion Date, it shall notify the SPD and Railways to this effect, and the SPD shall, within 15 (fifteen) days of such notice, by a communication inform the Railway Electrical Engineer and Railways in reasonable detail about the steps it proposes to take to expedite progress and the period within which it shall achieve COD.

13.5 Suspension of unsafe Development Works

13.5.1 Upon recommendation of the Railway Electrical Engineer to this effect, Railways may by notice require the SPD to suspend forthwith the whole or any part of the Development Works if, in the reasonable opinion of Railways, such work threatens the safety of the railways assets, personnel and passengers.

13.5.2 The SPD shall, pursuant to the notice under Clause 13.5.1, suspend the Development Works or any part thereof for such time and in such manner as may be specified by Railways and thereupon carry out remedial measures to secure the safety of suspended works. The SPD may by notice require the Railway Electrical Engineer to inspect such remedial measures forthwith and make a report to Railways recommending whether or not the suspension hereunder may be revoked. Upon receiving the recommendations of the Railway Electrical Engineer, Railways shall either revoke such suspension or instruct the SPD to carry out such other and further remedial measures as may be necessary in the reasonable opinion of Railways, and the procedure set forth in this Clause 13.5 shall be repeated until the suspension hereunder is revoked.

13.5.3 Subject to the provisions of Clause 31.7, all reasonable costs incurred for maintaining and protecting the Development Works or part thereof during the period of suspension (the "Preservation Costs"), shall be borne by the SPD; provided that if the suspension has occurred as a result of any breach of this Agreement by Railways, the Preservation Costs shall be borne by Railways.

13.5.4 If suspension of Development Works is for reasons not attributable to the SPD, the Railway Electrical Engineer shall determine any extension of the dates set forth in the Project Completion Schedule to which the SPD is reasonably entitled, and shall notify Railways accordingly whereupon Railways shall extend such Project Completion Schedule dates in accordance with the recommendations of the Railway Electrical Engineer. In the event that the Scheduled Completion Date is extended pursuant hereto, the Agreement Period shall be deemed to be extended by a period equal in length to the period of extension of the Scheduled Completion Date.

ARTICLE 14

COMPLETION CERTIFICATE

14.1 Tests

14.1.1 The SPD and Railways (or its representatives) shall develop suitable testing procedures one (1) month before the earlier of Scheduled Commercial Operation Date as agreed by the SPD and Railways or, where Phased Commissioning is to be undertaken by SPD, the date proposed by SPD for Commissioning of the first Unit. Such procedures shall take into consideration relevant standards. The procedures will be mutually agreed on by the SPD and Railways (or its representatives) in writing shall be deemed to be incorporated in this Agreement post development. These procedures will also conform to the Rooftop Development Policies, Regulations and Procedures followed for that particular state and the basic standard requirements of the Railways own electrical sections.

14.1.2 At least [30 (sixty)] days prior to the likely completion of the Solar Rooftop Power System, the SPD shall notify the Railway Electrical Engineer of its intent to subject the Solar Rooftop Power System to Tests. The date and time of each of the Tests shall be determined by the Railway Electrical Engineer in consultation with the SPD, and notified to Railways (at least 10 (ten) days in advance), who may designate its representative to witness the Tests. The SPD shall provide such assistance as the Railway Electrical Engineer and Railways Representative may require for conducting the Tests. For the avoidance of doubt, the costs to be incurred on any Test shall be borne solely by the SPD.

14.1.3 The Railway Electrical Engineer shall observe, monitor and review the results of the Tests to determine compliance of the Solar Rooftop Power System with Specifications and Standards and if it is reasonably anticipated or determined by the Railway Electrical Engineer during the course of any Test that the performance of the Solar Rooftop Power System or any part thereof does not meet the Specifications and Standards, it shall have the right to suspend or delay such Test and require the SPD to remedy and rectify the defects or deficiencies. Upon completion of each Test, the Railway Electrical Engineer shall provide to the SPD and Railways copies of all Test data including detailed Test results. For the avoidance of doubt, it is expressly agreed that the Railway Electrical Engineer may require the SPD to carry out or cause to be carried out additional Tests, in accordance with Good Industry Practice, for determining the compliance of the Solar Rooftop Power System with Specifications and Standards.

14.2 Completion Certificate

Upon completion of Development Work, and the Railway Electrical Engineer determining the Tests to be successful, the Railway Electrical Engineer shall forthwith issue to the SPD and Railways a certificate certifying the completion of the Solar Rooftop Power Systems (the "**Completion Certificate**").

14.3 Rescheduling of Tests

If the Railway Electrical Engineer certifies to Railways and the SPD that it is unable to issue the Completion Certificate because of events or circumstances on account of which the Tests could not be held or had to be suspended, the SPD shall be entitled to re-schedule the Tests and hold the same as soon as reasonably practicable.

14.4 Safety Certification [and Commercial Service Certificate]prior to COD

Railways shall, not later than [30 (thirty)] days after the issuance of the Completion Certificate, procure that the [Chief] Electrical Inspector in the Railways in charge of electrical safety (as the case may be) shall review the results of the Tests submitted by the Railway Electrical Engineer to determine and certify that the Solar Rooftop Power System is safe for entering into commercial service; provided that the relevant authority may inspect the Solar Rooftop Power System and/or require the SPD to conduct or cause to be conducted such additional tests as may be prudent and necessary in accordance with Applicable Laws and Good Industry Practice. For the avoidance of doubt, it is expressly agreed that the SPD shall not be liable to pay any charges to Railways towards such certification by the Chief Electrical Engineer/EIG of Railway Safety.

[14.4.2 Upon safety certification of the Solar Rooftop Power System in accordance with the provisions of Clause 14.4.1, Railways shall procure the issuance of commercial service certificate in respect of the Solar Rooftop Power System required for the purpose of commencing train operation on the Solar Rooftop Power System not later than 15 (fifteen) days from the date on which an application has been submitted by the SPD to the Zonal Railways in this regard. Railways agrees and undertakes that in the event the SPD is unable to receive Tariff on account of the delay in issuance of the commercial service certificate, the Railways shall pay to the SPD, Damages in a sum calculated at the rate of Rs. [1,000 (Rupees one thousand)] per day of delay commencing from the 16th (sixteenth) day of submission of the application by the SPD and until such commercial service certificate is procured] with a limit on the damages limited upto an extent of 20 percent of the bid security[§§]

14.5 Phased commissioning of Solar Rooftop Power System

14.5.1 The SPD will notify Railways at least 15 (fifteen) working days before the likely date of Commissioning of any Unit and at least 10 (ten) working days before the likely date for carrying out the Commissioning Tests. Railways will have the option of nominating one representative each to participate in the process of confirming the Commissioning Tests of the Unit / Facility.
All costs pertaining to the installation and Commissioning of the systems shall be borne by the SPD and will not be recoverable in any form from Railways.

14.5.2 The SPD will be entitled to undertake phased Commissioning. The SPD will commission the Facility in not more than three phases ("Phased Commissioning"), Provided that the entire Facility will be commissioned no later than the Scheduled COD. In case of Phased Commissioning the SPD will Commission 25% of the capacity within 90days of Appointed Date, another 25% within 120 days from appointed date and the remaining within the scheduled COD. The Completion Certificate will certify the capacity commissioned at each phase and at the end of the 100% commissioning, a certificate for total installed capacity " kWp" will be issued.

14.5.3 The SPD will be required to submit a monthly progress report to Railways beginning with signing of Agreement till the COD in such form and on such dates as is agreed by the SPD with Railways. The SPD will, no later than thirty (30) working days from the Appointed Date, furnish to Railways, by way of a written notice, a proposed interconnection plan, specifying in reasonable detail, the Phased Commissioning, if applicable, together with details of the Relevant Premises pertaining to each phase, and estimated time lines for the Commissioning of the phases.

14.5.4 Within 07 working days after the receipt of the notice for Phased Commissioning referred to in Section 14.5.2 above, Railways will by a written notice either:

- propose changes to dates for Commissioning of one or more Units; or
- agree to the dates for Phased Commissioning proposed by the SPD;

Provided that Railways will be entitled to propose changes to the SPD's dates for Commissioning on the ground that, in accordance with Prudent Utility Practices, that Railways' Distribution Grid cannot accommodate Electricity from one or more Units identified by the SPD;

Provided further that Railways will not have the right to defer the date(s) beyond a period of thirty (30) days from the date(s) mentioned in the notice.

Provided further that the SPD will be entitled to amend such interconnection plan with the consent of Railways.

ARTICLE 15

OPERATION AND MAINTENANCE

15.1. System operations

15.1.1. The Solar Power Developer will be responsible for operation and maintenance of the project ensuring the generation and sale of power. It will be bearing all costs and expenses for the operation and maintenance of the same; provided that any repair or maintenance costs incurred by the Solar Power Developer as a result of Railways' negligence or breach of its obligations hereunder will be reimbursed in full by Purchaser.

15.1.2. Solar Power Developer will not be responsible for any work done by others on any part of the System/Project authorized by Railways and not authorized in advance by the Solar Power Developer in writing. Solar Power Developer will not be responsible for any loss, damage, cost or expense arising out of or resulting from improper environmental anyone instructed to do such work by Purchaser. In the event of a problem with the System, as a result of Railways' actions, for which Solar Power Developer is not responsible as provided in this Agreement, Railways may choose and pay Solar Power Developer for diagnosing and correcting the problem at Solar Power Developer or Solar Power Developer's contractors' standard rates and charges then in effect.

Maintenance Requirements

15.1.3. The Solar Power Developer will also undertake cleaning of the solar systems at regular intervals, however the solar company will not use water jets/ pressurized hoses for the cleaning as the water may enter the internal circuitry laid down around these premises.

15.1.4. The Solar Power Developer shall give undertaking that for the plant period of minimum 25 years all the power packs covered under this project will be operated, maintained and repaired whenever necessary so that all Units are operative and export maximum possible energy to the grid This shall be ensured through undertaking services that include, but are not limited to, the following

I. Daily monitoring of plant performance.

II. Supply of all technical, production/operation data and information through a monthly report.

III. Planned visits on a monthly, quarterly, and annual basis for preventative and corrective maintenance which include, but are not limited to the following:

a) Clean solar panels on weekly basis or as appropriate to get maximum output from the panels.

b) Check inverter cabinets (ventilation openings, lighting, leakages in inverter cabinets and cleaning of filters) and inverter maintenance. Solar Power Developer will keep the necessary spares at the Project Site.

c) Check security and fire protection system.

d) Check parts for corrosion.

e) Check the state of tightness of connections, fuses, main junction boxes, etc.

f) Adequate spares to ensure uninterrupted operation and minimum downtime during the entire period.

g) Comprehensive operation and maintenance of the Facility up to the energy meter shall be the responsibility of the Solar Power Developer.

h) Comprehensive Operation and Maintenance during entire life of the systems shall include supply of spares, consumables, machine breakdown insurance, transpiration, and general comprehensive insurance covering fire, earthquake and provision of security personnel with the insurance policy

which shall be taken in the _____'s name as the primary beneficiary. Copies of the Insurance Policies are to be given to the concerned department, as and when taken/renewed. All risks associated with lapses or delays in insurance coverage, during the construction period, shall be at the Solar Power Developer's cost

15.1.5. The Solar Power Developer shall ensure efficient operation of the Project and the associated facilities to achieve the maximum power generation from the Project. For this purpose the Solar Power Developer shall engage the services of adequate number of Engineers and Technicians. The Solar Power Developer shall also attend to all failures, rectifications, breakdown, comprehensive Operation and Maintenance checks. Daily Management Information System (MIS) reports with generation and down time analysis data shall be made available to Railways office by E-mail.

System Disruption and Repair

15.1.6. Solar Power Developer will be entitled to suspend delivery of electricity from the System to the Delivery Point for the purpose of maintaining and repairing the System upon giving one week's advance written notice to Railways, except in the case of emergency repairs. Such suspension of service will not constitute a breach of this Agreement, provided that the Solar Power Developer will use commercially reasonable efforts to minimize any interruption in service to Railways. However, any preventive maintenance will be done only during the period when Plant is not generating.

15.1.7. In the event that (a) Railways repairs the Premises' roof for any reason not directly related to damage, if any, caused by the System, and such repair requires the partial or complete temporary disassembly or movement of the System, or (b) any act or omission of Railways or Railways' employees, Affiliates, agents or subcontractors (collectively a "Purchaser Act") results in a disruption or outage in System production, and such events attributable to Railways except Force Majeure, then, in either case, Railways will (i) pay the SPD for all work required by the SPD to disassemble or move the System and (ii) continue to make all payments for the Solar Power during such period of System disruption (the "Disruption Period").

15.1.8. In the event that (a) Railways repairs the Premises' roof for any reason directly related to damage, if any, caused by the System/ SPD, and such repair requires the partial or complete temporary disassembly or movement of the System, or (b) any act or omission of SPD or its employees, Affiliates, agents or subcontractors results in a disruption or outage in System production, and such events not attributable to Railways/ Force Majeure, then, in either case, SPD will (i) pay the Railways for all work required by Railways repair of roof; (ii) not be eligible for deemed generation and (iii) this period will be not be counted during accounting for calculation of CUF and evaluation of whether the system met the Normative CUF.

15.1.9. The SPD will inform about the disruption or outage in System production, for reasons attributable to Purchaser in writing with date and time of such occurrence, and purchaser's liability will start from the date of intimation of disruption or outage in system production, on account of purchaser.

15.1.10. The SPD shall coordinate in advance all such repair and maintenance work with the manager of the relevant buildings comprising the Site or his/her designee so as not to restrict parking access or interfere with scheduled activities on the relevant building comprising the Site. Upon such request for repair and maintenance work, the Railways shall respond to such request within five (5) Business Days. If the Railways does not respond to such request within such five (5) Business Days period, such request shall be deemed approved by the Railways. All such work shall be diligently prosecuted to completion to the end that such work shall not remain in a partly finished condition any long than is necessary for its completion.

15.1.11. In the event that Railways fails to ensure adequate space for solar equipment to ensure that other structures do not partially or wholly shade any part of the Solar Power Plant and if such shading occurs, the SPD will be eligible for Deemed

Generation furnishing the calculation for loss in generation due to such shading supported by the relevant data, which will be approved by Railways within one month of submission failing which the SPD will claim provisional deemed generation till the issue is finally settled.

15.1.12. In the event that the SPD fails to repair or rectify any defect or deficiency set forth in the Maintenance Requirements within the period specified therein, it shall be deemed to be in breach of this Agreement and Railways shall be entitled to recover Damages, to be calculated and paid for each day of delay until the breach is cured, at the rate of [Rs. 1,000 (rupees one thousand only)] or part thereof for every day of delay in rectification of the defect or deficiency set forth in the Maintenance Requirements. Recovery of such Damages shall be without prejudice to the rights of Railways under this Agreement, including the right of Termination thereof.

15.1.13. The Damages set forth in Clause 15.2.2 may be assessed and specified forthwith by the Railway Electrical Engineer; provided that Railways may, in its discretion, demand a smaller sum as Damages, if in its opinion, the breach has been cured promptly and the SPD is otherwise in compliance with its obligations hereunder. The SPD shall pay such Damages forthwith and in the event that it contests such Damages, the Dispute Resolution Procedure shall apply.

15.2. Maintenance Manual

15.2.1. With Scheduled Completion Date, the SPD shall, in consultation with the Railway Electrical Engineer, evolve a repair and maintenance manual (the "**Maintenance Manual**") for the regular and preventive maintenance of the Solar Rooftop Power System in conformity with the Specifications and Standards, Maintenance Requirements, Safety Requirements and Good Industry Practice, and shall provide 5 (five) copies thereof to Railways and 2 (two) copies to the Railway Electrical Engineer. The Maintenance Manual shall be revised and updated once every 3 (three) years and the provisions of this Clause 15.3 shall apply, *mutatis mutandis*, to such revision.

15.2.2. Without prejudice to the provision of Clause 15.3.1, the Maintenance Manual shall, in particular, include provisions for maintenance of Project Assets and shall provide for life cycle maintenance, routine maintenance and reactive maintenance which may be reasonably necessary for maintenance and repair of the Project Assets, including replacement thereof, such that its overall condition conforms to Good Industry Practice.

15.3. Maintenance Programme

15.3.1. On or before COD and no later than 45 (forty five) days prior to the beginning of each Accounting Year during the Operation Period, as the case may be, the SPD shall provide to Railways and the Railway Electrical Engineer, its proposed annual programme of preventive, urgent and other scheduled maintenance (the "Maintenance Programme") to comply with the Maintenance Requirements, Maintenance Manual and Safety Requirements. Such Maintenance Programme shall include:

(a) preventive maintenance schedule;

(b) arrangements and procedures for carrying out urgent repairs;

(c) criteria to be adopted for deciding maintenance needs;

(d) intervals and procedures for carrying out inspection of all elements of the Solar Rooftop Power System;

(e) intervals at which the SPD shall carry out periodic maintenance;

(f) arrangements and procedures for carrying out safety related measures;

(g) intervals for major maintenance works and the scope thereof; and

15.3.2. Within 15 (fifteen) days of receipt of the Maintenance Programme, the Railway Electrical Engineer shall review the same and convey its comments to the SPD with particular reference to its conformity with the Maintenance Requirements, Maintenance Manual and Safety Requirements.

15.3.3. The SPD may modify the Maintenance Programme as may be reasonable in the circumstances, and the procedure specified in Clauses 15.4.1 and 15.4.2 shall apply *mutatis mutandis* to such modifications.

15.4. Safety, breakdowns and accidents

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

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

15.5. De-commissioning due to Emergency

15.5.1. If, in the reasonable opinion of the SPD, there exists an Emergency which warrants de-commissioning and closure of the whole or any part of the Solar Rooftop Power System, the SPD shall be entitled to de-commission and close the whole or any part of the Solar Rooftop Power System for so long as such Emergency and the consequences thereof warrant; provided that such de-commissioning and particulars thereof shall be notified by the SPD to Railways without any delay, and the SPD shall diligently carry out and abide by any reasonable directions that Railways may give for dealing with such Emergency

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15.5.2. The SPD shall re-commission the Solar Rooftop Power System or the affected part thereof as quickly as practicable after the circumstances leading to its de-commissioning and closure have ceased to exist or have so abated as to enable the SPD to re-commission the Solar Rooftop Power System and shall notify Railways of the same without any delay.

15.5.3. Any decommissioning or closure of any part of the Solar Rooftop Power System and the re-commissioning thereof shall, as soon as practicable, be brought to the notice of affected persons by means of public announcements/notice.

15.6. Railways' right to take remedial measures

15.6.1. In the event the SPD does not maintain and/or repair the Solar Rooftop Power System or any part thereof in conformity with the Maintenance Requirements, the Maintenance Manual or the Maintenance Programme, as the case may be, and fails to commence remedial works within 15 (fifteen) days of receipt of the O&M Inspection Report or a notice in this behalf from Railways or the Railway Electrical Engineer, as the case may be, Railways shall, without prejudice to its rights under this Agreement including Termination thereof, be entitled to undertake such remedial measures at the risk and cost of the SPD, and to recover its cost from the

SPD. In addition to recovery of the aforesaid cost, a sum equal to 20% (twenty per cent) of such cost shall be paid by the SPD to Railways as Damages.

15.6.2.

Railways shall have the right, and the SPD hereby expressly grants to Railways the right, to recover the costs and Damages specified in Clause 15.7.1 directly from the Escrow Account as if such costs and Damages were O&M Expenses, and for that purpose, the SPD hereby agrees to give irrevocable instructions to the Escrow Bank to make payment from the Escrow Account in accordance with the instructions of Railways under this Clause 15.7.2 and debit the same to O&M Expenses.

15.7. Overriding powers of Railways

15.7.1. If in the reasonable opinion of Railways, the SPD is in material breach of its obligations under this Agreement and, in particular, the Maintenance Requirements, and such breach is causing or likely to cause danger, Railways may, without prejudice to any of its rights under this Agreement including Termination thereof, by notice require the SPD to take reasonable measures immediately for rectifying or removing such hardship or danger, as the case may be.

15.7.2. In the event that the SPD, upon notice under Clause 15.8,1, fails to rectify or remove any danger within a reasonable period, Railways may exercise overriding powers under this Clause 15.8.2 and take over the performance of any or all the obligations of the SPD to the extent deemed necessary by it for rectifying or removing such danger; provided that the exercise of such overriding powers by Railways shall be of no greater scope and of no longer duration than is reasonably required hereunder; provided further that any costs and expenses incurred by Railways in discharge of its obligations hereunder shall be deemed to be O&M Expenses, and Railways shall be entitled to recover them from the SPD in accordance with the provisions of Clause 17.8along with the Damages specified therein.

15.7.3. In the event of a national emergency, civil commotion, Railways may take over the performance of any or all the obligations of the SPD to the extent deemed necessary by it, and exercise such control over the Solar Rooftop Power System or give such directions to the SPD as may be deemed necessary; provided that the exercise of such overriding powers by Railways shall be of no greater scope and of no longer duration than is reasonably required in the circumstances which caused the exercise of such overriding power by Railways. It is also agreed that the SPD shall comply with such instructions as Railways may issue in pursuance of the provisions of this Clause 15.8, and shall provide assistance and cooperation to Railways, on a best effort basis, for performance of its obligations hereunder.

15.8. Restoration of loss or damage to the Solar Rooftop Power System

Any liability or obligation that may arise under this Agreement, any loss, damage, liability, payment, obligation or expense which is insured or not or for which the SPD can claim compensation, under any Insurance shall not be charged to or payable by Railways.

Save and except as otherwise expressly provided in this Agreement, in the event that the Solar Rooftop Power System or any part thereof suffers any loss or damage during the Agreement Period from any cause whatsoever, the SPD shall, at its cost and expense, rectify and remedy such loss or damage forthwith so that the Solar Rooftop Power System conforms to the provisions of this Agreement.

15.9. Modifications to the Solar Rooftop Power System

The SPD shall not carry out any material modifications to the Solar Rooftop Power System save and except where such modifications are necessary for the Solar Rooftop Power System to operate in conformity with the Specifications and Standards, Maintenance Requirements, Good Industry Practice and Applicable Laws; provided that the SPD shall take prior approval of Railways. For the avoidance of doubt, if any modification to the Solar Rooftop Power System has a material effect on its safety the same shall be subject to safety related certification in accordance with Applicable Laws and the procedure specified in Clause 14.4. For the avoidance of doubt, all modifications made hereunder shall comply with the Specifications and Standards, Applicable Laws and the provisions of this Agreement.

15.10. Excuse from performance of obligations

The SPD shall not be considered in breach of its obligations under this Agreement if any part of the Solar Rooftop Power System is not available to Users on account of any of the following for the duration thereof:

(a) an event of Force Majeure;

(b) measures taken to ensure the safe use of the Solar Rooftop Power System except when unsafe conditions occurred because of failure of the SPD to perform its obligations under this Agreement; or

(c) compliance with a request from Railways or the directions of any Government Instrumentality, the effect of which is to close all or any part of the Solar Rooftop Power System.

Notwithstanding the above, the SPD shall keep all unaffected parts of the Solar Rooftop Power System open to traffic provided they can be operated safely.

15.11. Advertising on the Solar Rooftop Power System

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

ARTCILE 16

DEEMED GENERATION

16.1. One of the obligations of Railways will be to pay Deemed Generation for being unable to off take Solar Energy from the SPD unless covered by the force majeure.

16.2. The SPD shall develop and commission the project within 270 days of this Agreement and within 180 days of the appointed date as per the timelines outlined in Article 5. In case of Phase Commissioning (as outlined in Article 14.5), the SPD shall commission 25 percent of the system capacity with 90 days of the appointed date, another 25 percent within 120 days of the Appointed date and the rest 50 percent within the scheduled COD of 180 days from the Appointed date.

16.3. If the SPD is unable to undertake Commissioning Tests for any Unit on expiry of 30 working days from the date mentioned in the notice provided by the SPD to Railways for any reason attributable to Railways (including due to non-availability of Internal Grid for Interconnection, or lack of capacity of the Internal Grid to support Electricity for conducting the Commissioning Tests, or absence of Railways representative for Commissioning Tests), the relevant Unit will be deemed to have been Commissioned ("Deemed Commissioning") on the date mentioned in the notice for the purpose of Deemed Generation.

16.4. In case of phase commissioning (as outlined in Article 14.5), if the Railways fails to off take Electricity at the Delivery Point at the phase commissioning date highlighted in Article 16.2 above, it shall be eligible for deemed commissioning. In case of Deemed Commissioning for a particular phase (and for the capacity to be commissioned during that phase), the SPD will be eligible for deemed generation for the period between the date on which the system was deemed commissioned and the date on which the SPD resumes Commissioning Tests, as determined Railways or its representative(s)pursuant ("Deemed Commissioning Period").

16.5. The SPD shall also be eligible for deemed commissioning, if a unit has been Commissioned but the Railways is unable to offtake solar power due to network unavailability or the availability of the rooftop. In such a condition, the Railways will be obligated to pay for the Electricity that could have been generated by the SPD during such period. Deemed generation shall be calculated at the Tariff specified in Article 23 ("Deemed Generation").

16.6. For the purpose of calculation of quantum of Deemed Generation (a) during Deemed Commissioning Period, Minimum CUF shall be applied to the nominal installed capacity of the Unit under Deemed Commissioning and (b) for the period after Commissioning, such period during which Railways failed to off take Electricity shall be divided into blocks of 15 minutes each and paid in blocks of 15 minutes. No deemed generation will be available for the first 15 minute block. The Electricity generated by the SPD during the same period of each 15 minutes block on the same date of the preceding year shall be taken as Deemed Generation, provided that if such situation occurs before expiry of one year after the Commercial Operation Date, Deemed Generation shall be based on the generation of Electricity in the same block of each 15 minutes on the immediately preceding day when there was no failure to off take on the part of Railways. If in the first year of the operation, Deemed Generation shall be based on the generation of Electricity in the same block of each 15 minutes for last 15 days for which the energy generation were monitored.

16.7. For purposes of the section 16.3, availability in relation to the Distribution Grid for a

given period shall mean the time in blocks of 15 minutes for that period when the Distribution Grid is able to evacuate the electricity from the entire Facility, expressed in percentage of the total hours in the period and shall not be less than ninety percent (90%).

16.8. In case the Railways, unable to evacuate power at any time during the operations, Railways will provide alternate arrangements at the earliest possible for the evacuation of the said power. During the period (for the time the evacuation is not available), Railways will compensate the SPD for the Deemed Power generated on the basis defined below. In case Railways' internal system fails, restricting power evacuation, Railways will pay cost equivalent to deemed generation to the SPD.

16.9. If, for reasons other than the SPD's breach of its obligations herein, the SPD ceases to have access rights to the Premises, Railways will provide an alternate site to set-up the operations within 2 weeks of the date of disruptions and provide Deemed Generation cost to the SPD.

16.10. In the event that (a) Railways repairs the Premises' roof for any reason directly related to damage, if any, caused by the System/ SPD, and such repair requires the partial or complete temporary disassembly or movement of the System, or (b) any act or omission of SPD or its employees, Affiliates, agents or subcontractors results in a disruption or outage in System production, and such events not attributable to Railways/ Force Majeure, then, in either case, SPD will (i)pay the Railways for all work required by Railways repair of roof; (ii) not be eligible for deemed generation and (iii) this period will be not be counted during accounting for calculation of CUF and evaluation of whether the system met the Normative CUF.

16.11. In the event that Railways fail to ensure adequate space for solar equipment to ensure that other structures do not partially or wholly shade any part of the Solar Power Plant and if such shading occurs, the SPD may apply for Deemed Generation furnishing the calculation for losing generation due to such shading supported by the relevant data, which will be approved by Purchaser within one month of submission failing which the SPD will claim provisional deemed generation till the issue is finally settled.

16.12. The SPD shall be responsible to obtain all insurance for each Facility Installation at its own cost. Relocation of the Facility Installations. Railways may, for the purpose of expansion of the Site or any building thereof or the construction of additional floor(s) on the Site, request the SPD by written notice to relocate the Facility Installation from such Relevant Premises to alternate location(s) of similar size to be provided by the Railways. Within 6 (six) months of receipt of such notice from the Railways, the SPD shall relocate the Facility Installation, subject to obtaining all necessary Approvals. A time of two week will be provided to the SPD for relocation of the premises for which the SPD will be eligible for deemed generation and cost of relocation.

ARTICLE 17

SAFETY REQUIREMENTS

17.1. Safety Requirements

17.1.1. The SPD will take all necessary and reasonable safety precautions with respect to providing the Installation Work, Solar Power, and System Operations that will comply with all Applicable Laws pertaining to the health and safety of persons and real and personal property.

17.1.2. The SPD shall take entire responsibility for electrical safety of the installation(s) including connectivity with the grid and follow all the safety rules & regulations applicable as per Electricity Act, 2003 and CEA guidelines etc

17.1.3. Project Management shall include adherence to all requisite safety practices.

17.1.4. Security, safety, watch, and ward of all materials at sites shall be the responsibility of the SPD.

17.1.5. Contractor Safety Management to be strictly complied with by the SPD throughout Project activity.

17.1.6. The SPD shall comply with the provisions of this Agreement, Applicable Laws and Applicable Permits and conform to Good Industry Practice for securing the safety of the Solar Rooftop Power System Solar Rooftop Power System. In particular, the SPD shall develop, implement and administer a surveillance and safety programme for providing a safe environment on or about the Solar Rooftop Power System, and shall comply with the safety requirements set forth in Schedule-E (the "**Safety Requirements**").

17.1.7. The Parties hereby agree that the Railway Electrical Engineer shall carry out safety audit of the Solar Rooftop Power System in accordance with the Safety Requirements at least once a quarter. The SPD shall, no later than 7 (seven) days after the close of each quarter, furnish to Railways a copy of the safety certification issued by the Safety Consultant. All costs and expenses to be incurred for facilitating the safety audit shall be solely borne by the SPD.

ARTICLE18

MONITORING OF OPERATION AND MAINTENANCE

18.1. Metering

18.1.1. The SPD will install the Main Metering System at the Delivery Point for the measurement of electrical energy produced by the System.

18.1.2. The Metering system will consist of a Main Meter and Backup Meter. The Backup Meter will be required for any system with a capacity of 49 kW and above.

18.1.3. Both the Parties agree that the respective Delivery Point of the Units comprising the Facility shall be the interface boundary on the SPD's side of the Main Meter. For each Delivery Point, a Main Meter and a Back Up Meter shall be established as per the provisions of Schedule C. The Back Up Meter shall be installed in accordance with the metering protocols currently followed by Railways if any.

18.1.4. The Parties agree that the installation, sealing, inspection, calibration, maintenance and testing of Main Meters and the Back Up Meters shall be as per the provisions of Schedule C and shall also conform to the Central Electricity Authority (Installation and Operation Meters) Regulation, 2006 as amended from time to time.

18.1.5. The meters will be sealed in the presence of representatives of the SPD and Railways. Any seal(s) of Main Meter or Backup Meter will be broken only by Railways' representative in the presence of the SPD's representative whenever such Meter is to be inspected, tested, adjusted, repaired or replaced.

18.1.6. The meter will be read by the SPD's personnel on the Metering Date in the presence of the authorized representative of Railways. Both the Parties will sign a joint meter reading report. However, in case the Joint Meter Reading Report is not signed in the first three Business days of any month due to non-availability of Railways' authorized representative, the report signed by the SPD will be considered as Joint Meter Reading Report. The Parties agree that such Joint meter reading Report will be final and binding on the Parties.

18.1.7. The Main Metering System at the Delivery Point and any additional meters required by Applicable Law will be tested, maintained and owned by the SPD.

18.1.8. In case of any change in the Delivery Point as mutually agreed between Railways and the SPD will automatically apply to this Agreement without any further action.

18.2. Meter Reading

18.2.1. The Parties may mutually agree to opt for remote/ automated meter reading (taking into account the date by which such meters will need to be installed prior to the First Commissioning Date) and will mutually decide upon the framework and methodology for such remote meter reading.

18.2.2. The risk and title to the SPD supplied by the SPD will pass to Railways at the Delivery Point.

18.2.3. When the Meter and/or any component thereof is found to be outside the acceptable limits of accuracy or otherwise not functioning properly, it will be repaired, re-calibrated or replaced by the SPD and/or the Railways at the SPD's cost, as soon as possible.

18.2.4. All the Main Meters and Backup Meters will be calibrated once in a period of one (1) year.

18.2.5. In the event that a Main Meter at a Delivery Point is not in service as a result of maintenance, repairs or testing, then the Backup Meter at such Delivery Point shall be used during the period the Main Meter is not in service.

18.3. Remote Display

SPD will arrange to install LED based display screens along with relevant hardware at 5 relevant stations and will develop relevant software programs which will display real time generation on a minute, hourly, daily, monthly and annual basis. The cost of development of these systems will have to be borne by the SPD.

18.4. Records

18.4.1. Each Party will keep complete and accurate records and all other data required by each of them for the purposes of proper administration of this Agreement and the operation of the Facility.

18.5. Daily status reports

Daily Management Information System (MIS) reports with generation and down time analysis data shall be made available to Railways office by E-mail.

During Operation Period, the SPD shall, no later than 7 (seven) days after the close of each month, furnish to Railways and the Railway Electrical Engineer a monthly report stating in reasonable detail the condition of the Project including its compliance or otherwise with the Maintenance Requirements, Maintenance Manual, Maintenance Programme and Safety Requirements, and shall promptly give such other relevant information as may be required by the Railway Electrical Engineer. In particular, such report shall separately identify and state in reasonable detail the defects and deficiencies that require rectification.

18.6. Reports of unusual occurrence

The Affected Party shall give notice to the other Party of any event of Force Majeure as soon as reasonably practicable, but not later than seven (7) days after the date on which such Party knew or should reasonably have known of the commencement of the event of Force Majeure. If an event of Force Majeure results in a breakdown of communications rendering it unreasonable to give notice within the applicable time limit specified herein, then the Party claiming Force Majeure shall give such notice as soon as reasonably practicable after reinstatement of communications, but not later than one (1) day after such reinstatement.

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 monthly) reports on the progress of those remedial measures and such other information as the other Party may reasonably request about the Force Majeure Event.

The Affected Party shall give the other Party regular (and not less than monthly) reports on the progress of those remedial measures and such other information as the other Party may reasonably request about the Force Majeure Event.

The SPD shall, upon occurrence of accidents or unusual occurrences on the Rail System, send to Railways, by facsimile or e-mail, a report, in a mutually agreed form, stating accidents and unusual occurrences on the Solar Rooftop Power System, as soon as reasonably practicable, and in any event no later than 24 (twenty four) hours after such occurrence. A weekly and monthly summary of such reports shall also be sent within 3 (three) days of the closing of each week and month, as the case may be. The record of such occurrences shall be maintained as per the prevailing practices on the Zonal railway. For the purposes of this Clause 18.2, accidents and unusual occurrences on the Rail System shall include:

a) death or injury to any person;
b) broken fences;
c) damaged or dislodged fixed equipment;
d) damage to or displacement of traction power conductor; or loss of traction power;

e) smoke or fire;
f) flooding;
g) any other event rendering the Solar Rooftop Power System unsafe Railways; and
h) such other relevant information as may be reasonably required by Railways or the Railway Electrical Engineer.

18.7. Inspection

The Railway Electrical Engineer shall inspect the Rail System at least once a month. It shall make a report of such inspection (the "**O&M Inspection Report**") stating in reasonable detail the defects or deficiencies, if any, with particular reference to the Maintenance Requirements, Maintenance Manual, the Maintenance Programme and Safety Requirements, and send a copy thereof to Railways and the SPD within 7 (seven) days of such inspection.

ARTICLE 19

SECURITY

19.1. Security

19.1.1. The SPD shall make its own arrangement for and take reasonable measures and shall be solely responsible for security of the Facility Installations, including commercially reasonable monitoring of the Site's alarms, if any.

19.1.2. The SPD shall check security and fire protection systems on a monthly basis.

19.1.3. Comprehensive Operation and Maintenance during entire life of the systems shall include provision of adequate security provisions

19.1.4. Railways acknowledges and agrees that unless otherwise specified in this Agreement it shall, at its own cost and expense, provide or cause to be provided security within the limits of the Solar Rooftop Power System for the prevention of terrorism, hijacking, sabotage and/or similar acts or occurrences; provided that Railways and the SPD may at any time mutually enter into an agreement to jointly provide security services to the rooftop solar project.

19.1.5. The SPD shall provide and maintain perimeter fencing or other suitable protection around the rooftop solar project and shall be responsible for the security arrangements, which also includes providing & maintaining necessary equipment at the entry, exit and within the rooftop solar project in order to maintain orderly conduct of its business and the security thereof.

19.1.6. The SPD shall abide by and implement any instructions of Railways for enhancing the security within and around the rooftop solar project. The SPD shall not be entitled to any compensation for disruption of its operations or loss or damage resulting from Railways' actions or the actions of any organization authorized by Railways other than those resulting from wilful or grossly negligent acts or omissions of such organisation. Railways agrees that it shall cause the relevant organisations to take such actions as reasonably deemed necessary by them, without unduly or unreasonably disrupting the operations of the rooftop solar project or interfering with the exercise of rights or fulfillment of obligations by the SPD under this Agreement. The SPD agrees that it shall extend its full support and cooperation to Railways and to the other organizations authorised by Railways in the discharge of their obligations there under.

19.1.7. Subject to the rights of the SPD under this Clause 19.1, Railways or any agency duly authorised by it shall be entitled to inspect and search any person or vehicle entering the Site or departing there from, without unduly or unreasonably disrupting the operations of the Rail System.

19.1.8. Railways agree that it shall, at the request of the SPD, procure and provide the services of security forces of Railways on a best effort basis.

19.1.9. Railways shall ensure and procure that the personnel of the SPD and all its contractors, suppliers, sub-contractors and agents and the Users are allowed free ingress and egress from the limits of the Rail System without any unreasonable interference by the personnel of Railways, including the security personnel employed by or on behalf of Railways.

ARTICLE20

RAILWAY ELECTRICAL ENGINEER

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20.1. Duties and functions

20.1.1. The Railway Electrical Engineer shall discharge its duties and functions substantially in accordance with the terms of reference set forth in this Agreement.

20.1.2. The Railway Electrical Engineer shall submit regular periodic reports (at least once every month) to Railways in respect of its duties and functions set forth in this Agreement.

20.2. Dispute resolution

If either Party disputes any advice, instruction, decision, direction or award of the Railway Electrical Engineer, or, as the case may be, the assertion or failure to assert jurisdiction, the Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

ARTICLE21

FINANCIAL CLOSE

21.1. Financial Close

21.1.1. The SPD hereby agrees and undertakes that it shall achieve Financial Close within 120 (one hundred and twenty) days from the date of this Agreement and in the event of delay, it shall be entitled to a further period not exceeding [90 (ninety)] days, subject to payment of Damages to Railways in a sum calculated at the rate of [0.1% (zero point one per cent)] of the Performance Security for each day of delay, and for a further period not exceeding [30 (thirty)] days, subject to payment of Damages at the rate specified in Clause 4.3; provided that the Damages specified herein shall be payable every week in advance and the period beyond the said [90 (ninety)] days shall be granted only to the extent of Damages so paid; provided further that no Damages shall be payable if such delay in Financial Close has occurred solely as a result of any default or delay by Railways in procuring satisfaction of the Conditions Precedent specified in Clause 4.1.2 or due to Force Majeure. For the avoidance of doubt, the Damages payable hereunder by the SPD shall be in addition to the Damages, if any, due and payable under the provisions of Clause 4.3.

21.1.2. The SPD shall, upon occurrence of Financial Close, notify Railways forthwith, and shall have provided to Railways, at least 2 (two) days prior to the Financial Close, 3 (three) true copies of the Financial Package and the Financial Model, duly attested by a Director of the SPD, along with 3 (three) soft copies of the Financial Model in MS Excel version or any substitute thereof, which is acceptable to the Senior Lenders.

21.2. Termination due to failure to achieve Financial Close

21.2.1. Notwithstanding anything to the contrary contained in this Agreement, in the event that Financial Close does not occur, for any reason whatsoever, within the period set forth in Clause 21.1.1 or the extended period provided there under, all rights, privileges, claims and entitlements of the SPD under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the SPD, and the Power Purchase Agreement shall be deemed to have been terminated by mutual agreement of the Parties. For the avoidance of doubt, it is agreed that in the event the Parties hereto have, by mutual consent, determined the Appointed Date to precede the Financial Close, the provisions of this Clause 21.2.1 shall not apply.

21.2.2. Upon Termination, Railways shall be entitled to encash the Bid Security and appropriate the proceeds thereof as Damages; provided, however, if Financial Close has not occurred solely as a result of Railways being in default of any of its obligations under Clause 4.1.2, it shall, upon Termination, return the Bid Security forthwith along with the Damages due and payable under Clause 4.2. For the avoidance of doubt, it is expressly agreed that if the Bid Security shall have been substituted by Performance Security, Railways shall be entitled to encash there from an amount equal to Bid Security.

ARTICLE 22

CENTRAL FINANCIAL ASSISTANCE

Central Financial Assistance (CFA)

22.1. Railways agrees to provide to the SPD cash support by way of an outright CFA equal to the sum set forth in the Bid, namely, [15%] of either the MNRE benchmark cost or the Total Project Cost, whichever is lowerof Installed Capacity, in accordance with the provisions of this Article 22 (**Central Financial Assistance**").

22.2. The Central Financial Assistance shall be disbursed to the SPD as per the guidelines of MNRE. Railways shall disburse each tranche of the Central Financial Assistance as and when due, but no later than [45 (Forty five)] days of receiving a request from the SPD along with necessary particulars.

22.3. Subject to the conditions specified in this Clause 25.2, the CFA shall be credited to the Escrow Account and shall be applied by the SPD for meeting the Total Project Costas per MNRE guidelines.

22.4. In the event of occurrence of a SPD Default, disbursement of Central Financial Assistance shall be suspended till such SPD Default has been cured by the SPD.

ARTICLE 23

TARIFF AND EFFECT OF VARIATIONS IN PROJECTED GENERATION

23.1. Consideration

Railways will pay to the SPD a monthly payment (the "**Tariff**") for the Solar Power generated by the Project during each calendar month of the Term equal to the product of the Actual Monthly Production as recorded in the Joint Meter Reading Report for the System for the relevant month multiplied by the Tariff

The SPD will bill Railways for each kWh metered as above at the Delivery Point, at the Tariff as decided (in INR) prevailing at that point of time. The Tariff will be equal to **Rs.[**]per kWh**

For the sake of simplicity, the second year will begin from the first date of the month following completion of one year from the Commercial Operation Date so as to maintain a monthly billing cycle.

23.2. Invoice

The SPD will invoice Purchaser on the first day of each month (each, an **"Invoice Date"**), commencing on the first Invoice Date to occur after the Commercial Operation Date, for the Solar Power Payment in respect of the immediately preceding month. The last invoice will include production only through the Expiration Date of this Agreement.

The Invoice to Railways will include:

a) The Solar Energy calculations for the relevant Billing Period;

b) Supporting data, documents and calculations in accordance with this Agreement

c) **Other Invoices:** Any amount due to either Party and payable by the other Party under this Agreement other than amounts set out in a Tariff Invoice shall be payable within thirty (30) days of presentation of a separate invoice (the "Other Invoice") by either Party. Format as per Schedule J.

23.3. Time of Payment

Purchaser will pay all amounts due hereunder within Thirty (30) working days after the date of the receipt of the invoice in Railways' office ("**Due Date**").

23.4. Method of Payment

Railways will make all payments under the Agreement by cheque or electronic funds transfer in immediately available funds to the account designated by the SPD from time to time. All payments made hereunder will be non-refundable, subject to the applicable tax deduction at source, and be made free and clear of any other tax, levy, assessment, duties or other charges and not subject to reduction, set-off, or adjustment of any kind. If Railways deducts any tax at source, Railways will issue a tax credit certificate as per law.

23.5. Generation Factors

The Normative CUF which the solar power developer will have to provide during first year of operations shall not be the less than [16%] of Installed capacity or the Normative CUF provided by the State Electricity Regulatory Commission. of Installed Capacity whichever is higher. The maximum Duration in generation allowed over the first ten years of operation is 10%, over life of the project is 20% of the Installed Capacity.

23.6. Shortfall in Generation

If for any contract year, it is found that the SPD has not been able to generate minimum energy as outlined in the Normative CUF, on account of reasons solely attributed to the Solar Company, such shortfall in performance shall make SPD liable to pay a compensation equivalent to the higher of the following:

a. shortfall in generation multiplied by Tariff agreed in this agreement.
b. the penalty accruing to Railways for not being able to meet its Renewable Purchase Obligation/ cost incurred for buying the shortfall in RE through RECs and the cost incurred by Railways for procuring an equivalent amount of energy from the distribution utility.

23.7. Taxes and duties

It is expressly agreed by the Parties that the tariff shall be inclusive of all taxes and duties, save and accept the tariff and duties in clause 23.7.2. It is further agreed that the SPD shall pay all taxes and duties including the taxes and duties specified in clause 23.7.2, in accordance with Applicable Laws.

The Tariff payable by the Railways under the Article 23 shall be exclusive of Service Tax, Electricity Duty, Value Added Tax or General Sales Tax, or any replacement thereon, if applicable, and any Service Tax, Electricity Duty, Value Added Tax or General Sales Tax thereon shall be paid by the SPD and reimbursed by the Railways upon submission of necessary particulars by the SPD related to the design, financing and generation of electricity but shall be exclusive of all taxes and duties which may be paid related to the delivery of electricity and would include service tax, electricity duty. It is further agreed that the SPD shall pay all taxes and duties in accordance with Applicable Laws. Any payment to be made by Railways shall be subject to any tax deduction at source, if required to be made by Railways as per Applicable Laws.

23.8. Tariff

Railways agrees and undertakes that commencing from the COD it shall, by the [30th(thirtieth)] day (or, if such day is not a Business Day, the immediately following Business Day) from the last day of each month, pay the Tariff to the SPD for the relevant month, through electronic transfer, to the nominated bank account of the SPD, and shall also provide a statement setting out the computation of the Tariff, including details of Damages payable in accordance with this Agreement, and the net amount payable by the SPD to the Railways in respect of the immediately preceding month in accordance with the provisions of this Agreement.
All Damages and any other amounts due and payable by the SPD to the Railways in accordance with and subject to the provisions of this Agreement may be deducted from the Tariff due and payable to the SPD and in the event the deductions hereunder exceed the Tariff in that month, the balance remaining shall be deducted from the Tariff due and payable to the SPD for the immediately following month.

23.9. Delayed payments

All amounts due and payable to the SPD under the provisions of this Agreement shall be paid within the period set forth in Clause 23.5. In the event of delay beyond such period, Railways shall pay interest for the period of delay, calculated at a rate equal to [2% (two pe cent) above the Bank Rate] on the amounts payable.

23.10. Disputed Payments

In the event that Railways disputes an Invoice, it will give notice of such a dispute within 15 days of receiving the Invoice setting out details of the disputed amount. The notice should include

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

Railways will pay by the Due Date 100% of any undisputed amount and in case the invoice is disputed, Railways will pay an amount based on average consumption of last three consecutive undisputed Invoices. Amount so recovered will be subject to final adjustment on resolution of the dispute.

If a SPD does not dispute the Invoice, as the case may be, within thirty (30) days of receiving it, such Invoice will be taken as conclusive against SPD.

If the SPD agrees to the claim raised in the Invoice Dispute Notice, the SPD will revise such Tariff Invoice within seven (7) days of receiving such notice and if Railways has already made the excess payment, refund to Railways such excess amount within fifteen (15) days of receiving such notice.

If the SPD does not agree to the claim raised in the "Invoice Dispute Notice" issued pursuant, it will, within fifteen (15) days of receiving the Invoice Dispute Notice, furnish a reply to Railways 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.

Upon receipt of reply of disagreement to the Invoice Dispute Notice, authorized representative(s) of each Party will meet and make best endeavors to amicably resolve such dispute. If the Parties are unable to resolve the dispute amicably within fifteen (15) days of receipt of reply of disagreement to the Invoice Dispute Notice pursuant, the matter will be referred to Dispute Resolution in accordance with Article 33.

Upon resolution of the dispute, in case the SPD is subsequently found to have overcharged, the overcharged amount with an interest of SBAR plus 2% for the period it retained the additional amount will be adjusted against subsequent invoice. In the event the amount is payable by Railways', it will pay, to the Solar Company, the disputed amount with an interest of SBAR plus 2% for the period it disputed the Tariff Invoice amount or the Other Invoice.

Railways / the SPD will not have the right to challenge any Tariff Invoice or Other Invoice, as the case may be, or to bring any legal or administrative action of any kind questioning/modifying a Tariff Invoice or Other Invoice, as the case may be, after a period of three years from the Due Date of the Tariff Invoice or Other Invoice, as the case may be.

ARTICLE 24

ESCROW ACCOUNT

24.1. Escrow Account

24.1.1. The SPD shall, prior to the Appointed Date, open and establish an Escrow Account with a Bank (the "**Escrow Bank**") in accordance with this Agreement read with the Escrow Agreement.

24.1.2. The nature and scope of the Escrow Account are fully described in the agreement (the "Escrow Agreement") to be entered into amongst the SPD, Railways, the Escrow Bank and the Senior Lenders through the Lenders" Representative, which shall be substantially in the form set forth in Schedule-K.

24.2. Deposits into Escrow Account

The SPD and/or Railways, as the case may be, shall deposit or cause to be deposited the following inflows and receipts into the Escrow Account:

(a) all funds constituting the Financial Package;
(b) all payments on account of tariff and any other revenues from or in respect of the solar power projects, including the proceeds of any rentals, deposits, capital receipts or insurance claims; and
(c) all payments by Railways, after deduction of any outstanding Agreement Fee:

Provided that the Senior Lender's may make direct disbursements to the EPC Contractor in accordance with the express provisions contained in this behalf in the Financing Agreements.

24.3. Withdrawals during Agreement Period

24.3.1. The SPD shall, at the time of opening the Escrow Account, give irrevocable instructions, by way of an Escrow Agreement, to the Escrow Bank instructing, *inter alia*, that deposits in the Escrow Account shall be appropriated in the following order every month, or at shorter intervals as necessary, and if not due in a month then appropriated proportionately in such month and retained in the Escrow Account and paid out there from in the month when:

i. All taxes due and payable by the SPD for and in respect of the rooftop solar project system;
ii. All payments relating to construction of the solar project system, subject to and in accordance with the conditions, if any, set forth in the Financing Agreements;
iii. O&M Expenses, subject to the ceiling, if any, set forth in the Financing Agreements;
iv. O&M Expenses and other costs and expenses incurred by Railways in accordance with the provisions of this Agreement, and certified by Railways as due and payable to it;

24.3.2. Payable to Railways;

(f) monthly proportionate provision of Debt Service due in an Accounting Year;

(g) all payments and Damages certified by Railways as due and payable to it by the SPD;

(h) monthly proportionate provision of debt service payments due in an Accounting Year in respect of Subordinated Debt;

(i) any reserve requirements set forth in the Financing Agreements; and

(j) balance, if any, in accordance with the instructions of the SPD.

24.3.3. The SPD shall not in any manner modify the order of payment specified in Clause 24.3.1, except with the prior written approval of Railways.

24.4. Withdrawals upon Termination

24.4.1. Notwithstanding anything to the contrary contained in this Agreement, all amounts standing to the credit of the Escrow Account shall, upon Termination, be appropriated in the following order:

a) all taxes due and payable by the SPD for and in respect of the solar power project.;
b) 90% (ninety per cent) of Debt Due excluding Subordinated Debt;
c) outstanding amount, if any under Agreement;
d) all payments and Damages certified by Railways as due and payable to it by the SPD;
e) retention and payments relating to the liability set forth in Article 31;
f) outstanding Debt Service including the balance of Debt Due;
g) outstanding Subordinated Debt;
h) incurred or accrued O&M Expenses;
i) any other payments required to be made under this Agreement; and
j) balance, if any, in accordance with the instructions of the SPD:

24.4.2. The provisions of this Article 28 and the instructions contained in the Escrow Agreement shall remain in full force and effect until the obligations set forth in Clause 28.4.1 have been discharged.

ARTICLE 25

INSURANCE

25.1. Insurance during Agreement Period

The SPD shall effect and maintain at its own cost, during the Construction Period and the Operation Period, such insurances for such maximum sums as may be required under the Financing Agreements and the Applicable Laws, and such insurances as may be necessary or prudent in accordance with Good Industry Practice. The SPD shall also effect and maintain such insurances as may be necessary for mitigating the risks that may devolve on Railways as a consequence of any act or omission of the SPD during the Construction Period. The SPD shall procure that in each insurance policy, Railways shall be a co-insured and that the insurer shall pay the proceeds of insurance into the Escrow Account. For the avoidance of doubt, the level of insurance to be maintained by the SPD after repayment of Senior Lenders‟ dues in full shall be determined on the same principles as applicable for determining the level of insurance prior to such repayment of Senior Lenders‟ dues.

Without prejudice to the provisions contained in Clause 25.1.1, the SPD shall, during the Operation Period, procure and maintain Insurance Cover including but not limited to the following:

i. Loss, damage or destruction of the Project Assets, including assets handed over by Railways to the SPD, at replacement value;

ii. comprehensive third party liability insurance including injury to or death of personnel of Railways or others who may enter the Rail System;

iii. the SPD's general liability arising out of the Agreement;

iv. liability to third parties for goods or property damage;

v. workmen's compensation insurance; and

vi. any other insurance that may be necessary to protect the SPD and its employees, including all Force Majeure Events that are insurable at commercially reasonable premiums and not otherwise covered in items (i) to (iv) above.

vii. The SPD is advised to take insurance policy with reinstatement clause built-in so any proceeds from insurance claims can cover the cost of a new plant.

25.2. Notice to Railways

No later than 45 (forty five) days prior to commencement of the Construction Period, the SPD shall by notice furnish to Railways, in reasonable detail, information in respect of the insurances that it proposes to effect and maintain in accordance with this Article 29.

Within 30 (thirty) days of receipt of such notice, Railways may require the SPD to effect and maintain such other insurances as may be necessary pursuant hereto, and in the event of any difference or disagreement relating to any such insurance, the Dispute Resolution Procedure shall apply.

25.3. Evidence of Insurance Cover

All insurances obtained by the SPD in accordance with this Article 29 shall be maintained with insurers on terms consistent with Good Industry Practice. Within 15 (fifteen) days of obtaining any insurance cover, the SPD shall furnish to Railways, notarised true copies of the certificate(s) of insurance, copies of insurance policies and premia payment receipts in respect of such insurance, and no such insurance shall be cancelled, modified, or allowed to expire or lapse until the expiration of at least 45 (forty five) days after notice of such proposed cancellation, modification or non-renewal has been delivered by the SPD to Railways.

25.4. Remedy for failure to insure

If the SPD shall fail to effect and keep in force all insurances for which it is responsible pursuant hereto, Railways shall have the option to either keep in force any such insurances, and pay such premia and recover the costs thereof from the SPD, or in the event of computation of a Termination Payment, treat an amount equal to the Insurance Cover as deemed to have been received by the SPD.

25.5. Waiver of subrogation

All insurance policies in respect of the insurance obtained by the SPD pursuant to this Article 29 shall include a waiver of any and all rights of subrogation or recovery of the insurers there under against, *inter alia*, Railways, and its assigns, successors, undertakings and their subsidiaries, affiliates, employees, insurers and underwriters, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policies of insurance.

25.6. SPD's waiver

The SPD hereby further releases, assigns and waives any and all rights of subrogation or recovery against, *inter alia*, Railways and its assigns, undertakings and their subsidiaries, affiliates, employees, successors, insurers and underwriters, which the SPD may otherwise have or acquire in or from or in any way connected with any loss, liability or obligation covered by policies of insurance maintained or required to be maintained by the SPD pursuant to this Agreement (other than third party liability insurance policies) or because of deductible clauses in or inadequacy of limits of any such policies of insurance.

25.7. Application of insurance proceeds

The proceeds from all insurance claims, except life and injury, shall be paid to the SPD by credit to the Escrow Account and it shall, notwithstanding anything to the contrary contained in Clause 24.3, apply such proceeds for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Solar power System, and the balance remaining, if any, shall be applied in accordance with the provisions contained in this behalf in the Financing Agreements.

ARTICLE 26

ACCOUNTS AND AUDIT

26.1. Audited accounts

26.1.1. The SPD shall maintain books of accounts recording all its receipts (including all revenues derived/collected by it from or on account of the Solar Rooftop Power System and/or its use), income, expenditure, payments (including payments from the Escrow Account), assets and liabilities, in accordance with this Agreement, Good Industry Practice, Applicable Laws and Applicable Permits. The SPD shall provide 2 (two) copies of its Balance Sheet, Cash Flow Statement and Profit and Loss Account, along with a report thereon by its Statutory Auditors, within 90 (ninety) days of the close of the Accounting Year to which they pertain and such audited accounts, save and except where expressly provided to the contrary, shall form the basis of payments by either Party under this Agreement. Railways shall have the right to inspect the records of the SPD during office hours and require copies of relevant extracts of books of accounts, duly certified by the Statutory Auditors, to be provided to Railways for verification of basis of payments, and in the event of any discrepancy or error being found, the same shall be rectified and such rectified account shall form the basis of payments by either Party under this Agreement.

26.1.2. The SPD shall, within 30 (thirty) days of the close of each quarter of an Accounting Year, furnish to Railways its unaudited financial results in respect of the preceding quarter, in the manner and form prescribed by the Securities and Exchange Board of India for publication of quarterly results by the companies listed on a stock exchange.

26.1.3. On or before the 31st (thirty-first) day of May each Year, the SPD shall provide to Railways, for the preceding Accounting Year, a statement duly audited by its Statutory Auditors giving summarised information on tariff received nd other revenues derived from the Solar Rooftop Power System, and such other information as Railways may reasonably require.

26.2. Appointment of auditors

26.2.1. The SPD shall, at its own cost and expense, appoint, and have during the subsistence of this Agreement as its Statutory Auditors, a firm chosen by it in accordance with the eligibility criteria set forth herein below:

(a) the firm should have conducted statutory audit of the annual accounts of at least 100 (one hundred) companies registered under the Companies Act2013, of which at least 10 (ten) should have been public sector undertakings;

(b) the firm should have at least 5 (five) practicing Chartered Accountants on its rolls, each with a minimum experience of 10 (ten) years in the profession;

(c) the firm or any of its partners should not have been disqualified or black-listed by the Comptroller and Auditor General of India or Railways; and

(d) the firm should have an office in the State or in an adjacent State with at least 2 (two) practicing Chartered Accountants on its rolls in such State.

26.2.2. The SPD may terminate the appointment of its Statutory Auditors after a notice of 45 (forty five) days to Railways, subject to the replacement Statutory Auditors being appointed by it in accordance with clause 26.2.1.

26.2.3. Notwithstanding anything to the contrary contained in this Agreement, Railways shall have the right, but not the obligation, to appoint at its cost from time to time and at anytime, another firm (the "**Additional Auditors**") to audit and verify all those matters, expenses, costs, realizations and things which the Statutory Auditors are required to do, undertake or certify pursuant to this Agreement.

26.3. Certification of claims by Statutory Auditors and Additional Auditor

Any claim or document provided by the SPD to Railways in connection with or relating to receipts, income, payments, costs, expenses, accounts or audit, and any matter incidental thereto shall be valid and effective only if certified by its Statutory Auditors and Additional Auditor, if appointed. For the avoidance of doubt, such certification shall not be required for exchange of information in the normal course of business.

26.4. Set-off

In the event any amount is due and payable by Railways to the SPD, it may set-off any sums payable to it by the SPD and pay the balance remaining. Any exercise by Railways of its rights under this Clause shall be without prejudice to any other rights or remedies available to it under this Agreement or otherwise.

26.5. Dispute Resolution

In the event of there being any difference between the findings of the Additional Auditors and the certification provided by the Statutory Auditors, such Auditors shall meet to resolve the differences and if they are unable to resolve the same, such Dispute shall be resolved by Railways by recourse to the Dispute Resolution Procedure.

ARTICLE 27

SUSPENSION OF SPD'S RIGHTS

27.1. Suspension upon SPD Default

Upon occurrence of a SPD Default, Railways shall be entitled, without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to (i) suspend all rights of the SPD under this Agreement including the SPD`s right to payment of Tariff, and other revenues pursuant hereto, and (ii) exercise such rights itself and perform the obligations hereunder or authorise any other person to exercise or perform the same on its behalf during such suspension (the "**Suspension**"). Suspension hereunder shall be effective forthwith upon issue of notice by Railways to the SPD and may extend up to a period not exceeding 180 (one hundred and eighty) days from the date of issue of such notice; provided that upon written request from the SPD and the Lenders` Representative, Railways shall extend the aforesaid period of [180 (one hundred and eighty)] days by a further period not exceeding 90 (ninety) days.

27.2. Railways to act on behalf of SPD

27.2.1. During the period of Suspension, Railways shall, on behalf of the SPD, appropriate all Tariff and revenues under and in accordance with this Agreement and deposit the same in the Escrow Account. Railways shall be entitled to make withdrawals from the Escrow Account for meeting the costs incurred by it for remedying and rectifying the cause of Suspension, and thereafter for defraying the expenses specified in Clause 24.3.

27.2.2. During the period of Suspension hereunder, all rights and liabilities vested in the SPD in accordance with the provisions of this Agreement shall continue to vest therein and all things done or actions taken, including expenditure incurred by Railways for discharging the obligations of the SPD under and in accordance with this Agreement and the Project Agreements, shall be deemed to have been done or taken for and on behalf of the SPD and the SPD undertakes to indemnify Railways for all costs incurred during such period. The SPD hereby licences and sub-licences respectively, Railways or any other person authorised by it under Clause 33.1 to use during Suspension, all Intellectual Property belonging to or licenced to the SPD with respect to the Rail System and its design, engineering, construction, operation and maintenance, and which is used or created by the SPD in performing its obligations under the Agreement.

27.3. Revocation of Suspension

27.3.1. In the event that Railways shall have rectified or removed the cause of Suspension within a period not exceeding 90 (ninety) days from the date of Suspension, it shall revoke the Suspension forthwith and restore all rights of the SPD under this Agreement. For the avoidance of doubt, the Parties expressly agree that Railways may, in its discretion, revoke the Suspension at any time, whether or not the cause of Suspension has been rectified or removed hereunder.

27.3.2. Upon the SPD having cured the SPD Default within a period not exceeding 90 (ninety) days from the date of Suspension, Railways shall revoke the Suspension forthwith and restore all rights of the SPD under this Agreement.

27.4. Substitution of SPD

At any time during the period of Suspension, the Lenders‟ Representative, on behalf of Senior Lenders, shall be entitled to substitute the SPD under and in accordance with the Substitution Agreement, and upon receipt of notice there under from the Lenders‟ Representative, Railways shall withhold Termination for a period not exceeding 180 (one hundred and eighty) days from the date of Suspension, and any extension thereof under Clause 27.1, for enabling the Lenders‟ Representative to exercise its rights of substitution on behalf of Senior Lenders.

27.5. Termination

27.5.1. At any time during the period of Suspension under this Article 33, the SPD may by notice require Railways to revoke the Suspension and issue a Termination Notice.

27.5.2. Subject to the rights of the Lenders‟ Representative to undertake substitution in accordance with the provisions of this Agreement and within the period specified in Clause 33.4, Railways shall, within 15 (fifteen) days of receipt of such notice, terminate this Agreement under and in accordance with Article 34.

27.5.3. Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 180 (one hundred and eighty) days from the date of Suspension hereunder or within the extended period, if any, set forth in Clause 33.1, the Power Purchase Agreement shall, upon expiry of the aforesaid period, be deemed to have been terminated by mutual agreement of the Parties and all the provisions of this Agreement shall apply, *mutatis mutandis*, to such Termination as if a Termination Notice had been issued by Railways upon occurrence of a SPD Default.

ARTICLE 28

TERMINATION

28.1. Termination for SPD Default

28.1.1. Save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and the SPD fails to cure the default within the Cure Period set forth below, or where no Cure Period is specified, then within a Cure Period of 60 (sixty) days, the SPD shall be deemed to be in default of this Agreement (the "**SPD Default**"), unless the default has occurred solely as a result of any breach of this Agreement by Railways or due to Force Majeure. The defaults referred to herein shall include:

(a) the Performance Security has been en-cashed and appropriated in accordance with Clause 9.2 and the SPD fails to replenish or provide fresh Performance Security within a Cure Period of 30 (thirty) days;

(b) subsequent to the replenishment or furnishing of fresh Performance Security in accordance with Clause 9.2, the SPD fails to cure, within a Cure Period of 90 (ninety) days, the SPD Default for which whole or part of the Performance Security was appropriated;

(c) the SPD does not achieve the latest outstanding Project Milestone due in accordance with the provisions of Schedule G and continues to be in default for [120 (one hundred and twenty)] §§§§ days;

(d) the SPD abandons or manifests intention to abandon the construction or operation or maintenance of the Project without the prior written consent of Railways;

(e) Project Completion Date does not occur within the period specified in Article 12 and Article 14;

(f) the SPD is in breach of the Maintenance Requirements or the Safety Requirements, as the case may be, or commits repeated default;

(g) the SPD has failed to make any payment to Railways within the period specified in this Agreement;

(h) an Escrow Default has occurred and the SPD fails to cure the default within a Cure Period of 15 (fifteen) days;

(i) upon occurrence of a Financial Default, the Lenders" Representative has by notice required Railways to undertake Suspension or Termination, as the case may be, in accordance with the Substitution Agreement and the SPD fails to cure the default within the Cure Period specified hereinabove;

(j) a breach of any of the Project Agreements by the SPD has caused a Material Adverse Effect;

(k) the SPD creates any Encumbrance in breach of this Agreement;

(l) the SPD repudiates this Agreement or otherwise takes any action or evidences or conveys an intention not to be bound by the Agreement;

(m) a Change in Ownership has occurred in breach of the provisions of Clause 5.3;

(n) there is a transfer, pursuant to law either of (i) the rights and/or obligations of the SPD under any of the Project Agreements, or of (ii) all or part of the assets or undertaking of the SPD, and such transfer causes a Material Adverse Effect;

(o) an execution levied on any of the assets of the SPD has caused a Material Adverse Effect;

(p) the SPD is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the SPD or for the whole or material part of its assets that has a material bearing on the Project;

(q) the SPD has been, or is in the process of being liquidated, dissolved, wound-up, amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of Railways, a Material Adverse Effect;

(r) a resolution for winding up of the SPD is passed, or any petition for winding up of the SPD is admitted by a court of competent jurisdiction and a provisional liquidator or receiver is appointed and such order has not been set aside within 90 (ninety) days of the date thereof or the SPD is ordered to be wound up by Court except for the purpose of amalgamation or reconstruction; provided that, as part of such amalgamation or reconstruction, the entire property, assets and undertaking of the SPD are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the SPD under this Agreement and the Project Agreements; and provided that:

(i) the amalgamated or reconstructed entity has the capability and operating experience necessary for the performance of its obligations under this Agreement and the Project Agreements;

(ii) the amalgamated or reconstructed entity has the financial standing to perform its obligations under this Agreement and the Project Agreements and has a credit worthiness at least as good as that of the SPD as at the Appointed Date; and

(iii) each of the Project Agreements remains in full force and effect;

(s) any representation or warranty of the SPD herein contained which is, as of the date hereof, found to be materially false, incorrect or misleading or the SPD is at any time hereafter found to be in breach thereof;

(t) the SPD submits to Railways any statement, notice or other document, in

written or electronic form, which has a material effect on Railways' rights, obligations or interests and which is false in material particulars;

(u) the SPD has failed to fulfil any obligation, for which failure Termination has been specified in this Agreement; or

(v) the SPD commits a default in complying with any other provision of this Agreement if such default causes a Material Adverse Effect on Railways.

(w) "Construction Default" means failure to achieve Commercial Operation by the Scheduled Commercial Operation Date or failure to commence construction of the Project within 09 (nine) months following the Appointed Date of this Agreement);

28.1.2. Without prejudice to any other rights or remedies which Railways may have under this Agreement, upon occurrence of a SPD Default, Railways shall be entitled to terminate this Agreement by issuing a Termination Notice to the SPD; provided that before issuing the Termination Notice, Railways shall by a notice inform the SPD of its intention to issue such Termination Notice and grant 15 (fifteen) days to the SPD to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.

28.2. Railways shall, if there be Senior Lenders, send a copy of its notice of intention to issue a Termination Notice referred to in Clause 34.1.2 to inform the Lenders‟ Representative and grant 15 (fifteen) days to the Lenders‟ Representative, for making a representation on behalf of the Senior Lenders stating the intention to substitute the SPD in accordance with the Substitution Agreement. In the event Railways receives such representation on behalf of Senior Lenders, it shall, in its discretion, either withhold Termination for a period not exceeding 180 (one hundred and eighty) days from the date of such representation or exercise its right of Suspension, as the case may be, for enabling the Lenders‟ Representative to exercise the Senior Lenders‟ right of substitution in accordance with the Substitution Agreement:

Provided that the Lenders‟ Representative may, instead of exercising the Senior Lenders‟ right of substitution, procure that the default specified in the notice is cured within the aforesaid period of 180 (one hundred and eighty) days, and upon such curing thereof, Railways shall withdraw its notice referred to above and restore all the rights of the SPD:

Provided further that upon written request from the Lenders‟ Representative and the SPD, Railways shall extend the aforesaid period of 180 (one hundred and eighty) days by such further period not exceeding 90 (ninety) days, as Railways may deem appropriate.

28.3. Termination for Railways Default

In the event that any of the defaults specified below shall have occurred, and Railways fails to cure such default within a Cure Period of 90 (ninety) days or such longer period as has been

expressly provided in this Agreement, Railways shall be deemed to be in default of this Agreement (the "**Railways Default**") unless the default has occurred as a result of any breach of this Agreement by the SPD or due to Force Majeure. The defaults referred to herein shall include:

(a) Railways commits a material default in complying with any of the provisions of this Agreement and such default has a Material Adverse Effect on the SPD;

(b) Railways has failed to make payment of Tariff to the SPD in accordance with Article23 of this Agreement; or

(c) Railways repudiate this Agreement or otherwise takes any action that amount to or manifests an irrevocable intention not to be bound by this Agreement.

Without prejudice to any other right or remedy which the SPD may have under this Agreement, upon occurrence of a Railways Default, the SPD shall, subject to the provisions of the Substitution Agreement, be entitled to terminate this Agreement by issuing a Termination Notice to Railways; provided that before issuing the Termination Notice, the SPD shall by a notice inform Railways of its intention to issue the Termination Notice and grant 15 (fifteen) days to Railways to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.

28.4. Termination Payment

28.4.1 Upon Termination on account of a SPD Default during the Operation Period, Railways shall pay to the SPD, by way of Termination Payment, an amount equal to :

(a) 90% (ninety per cent) of the Debt Due less CFA paid &Insurance Cover; and

(b) 70% (seventy per cent) of the amount representing the Additional Termination Payment:

Provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, then 80% (eighty per cent) of such unpaid claims shall be included in the computation of Debt Due.

For the avoidance of doubt, the SPD hereby acknowledges that no Termination Payment shall be due or payable on account of an SPD Default occurring prior to COD and the SPD will take over the project assets on as is where is basis and restore the Railway premises and return CFA paid .

28.4.2 Upon Termination on account of a Railways Default, Railways shall pay to the SPD, by way of Termination Payment, an amount equal to:

28.4.3 Debt Due less CFA and Insurance Cover;

28.4.4 150% (one hundred and fifty per cent) of the Adjusted Equity; and

28.4.5 115% (one hundred and fifteen per cent) of the amount representing the Additional Termination Payment.

28.4.6 Termination Payment shall become due and payable to the SPD within 45 (forty five) days of a demand being made by the SPD to Railways with the necessary particulars,

and in the event of any delay, Railways shall pay interest at a rate equal to 3% (three per cent) above the Bank Rate on the amount of Termination Payment remaining unpaid; provided that such delay shall not exceed 90 (ninety) days. For the avoidance of doubt, it is expressly agreed that Termination Payment shall constitute full discharge by Railways of its payment obligations in respect thereof hereunder.

Upon Termination on expiry of the Agreement Period on "Expiration Date" by efflux of time, no Termination Payment shall be due and payable to the SPD; provided that in the event any Project Assets, essential for the efficient, economic and safe operation of the Rail System, shall have been acquired and installed after the [15th(Fifteenth)] anniversary of COD, with prior written consent of Railways (which consent shall not be unreasonably denied), a Termination Payment equal to 80% (eighty per cent) of the Adjusted Depreciated Value of such Project Assets shall, notwithstanding the provisions of Clause 34.4.1, be made by Railways to the SPD.

28.4.7 Notwithstanding anything to the contrary in this Agreement, but subject to the provisions of Clause 34.3.4, in the event any Project Assets, essential for the efficient, economic and safe operation of the Solar Power System, shall have been acquired and installed after the [15th(Fifteenth)] anniversary of COD, with prior written consent of Railways (which consent shall not be unreasonably denied), a sum equal to 80% (eighty per cent) of the Adjusted Deprec[ia]ted Value thereof shall be deemed to be Debt Due for the purposes of Termination Payment.

28.4.8 The SPD expressly agrees that Termination Payment under this Article 34 shall constitute a full and final settlement of all claims of the SPD on account of Termination of this Agreement for any reason whatsoever and that the SPD or any shareholder thereof shall not have any further right or claim under any law, treaty, convention, contract or otherwise.

28.5. Certain limitations on Termination Payment

28.5.1 Termination Payment, (not being Additional Termination Payment), due and payable under this Agreement shall be limited to the Debt Due and Adjusted Equity, as the case may be, which form part of the Total Project Cost in accordance with the provisions of this Agreement. For the avoidance of doubt, it is agreed that within a period of 60 (sixty) days from COD, the SPD shall notify to Railways, the Total Project Cost as on COD and its disaggregation between Debt Due and Equity, and only the amounts so conveyed shall form the basis of computing Termination Payment, and it is further agreed that in the event such disaggregation is not notified to Railways, Equity shall be deemed to be the amount arrived at by subtracting Debt Due from Total Project Cost.

28.5.2 (Additional Termination Payment due and payable in respect of Specified Assets, which are constructed, acquired or installed after the 5th (fifth) anniversary of COD, but before the [15th (fifteenth)] anniversary thereof, shall be limited to the lowest of:)

(a) Adjusted Depreciated Value thereof;

(b) the replacement value thereof, as assessed by an Approved Valuer, who shall be selected and appointed by Railways, within 15 (fifteen) days of Termination, for submitting his assessment within 30 (thirty) days of his appointment hereunder; and

(c) [20% (twenty per cent)] of the sum of Total Project Cost and Equity Support, if any.

28.6. Other rights and obligations of Railways

Upon Termination for any reason whatsoever, Railways shall:

(a) be deemed to have taken possession and control of the Solar System forthwith;

(b) take possession and control of all materials, stores, implements, construction plants and equipment on or about the Site;

(c) be entitled to restrain the SPD and any person claiming through or under the SPD from entering upon the Site or any part of the Project;

(d) require the SPD to comply with the Divestment Requirements ; and

(e) succeed upon election by Railways, without the necessity of any further action by the SPD, to the interests of the SPD under such of the Project Agreements as Railways may in its discretion deem appropriate, and shall upon such election be liable to the Contractors only for compensation accruing and becoming due and payable to them under the terms of their respective Project Agreements from and after the date Railways elects to succeed to the interests of the SPD. For the avoidance of doubt, the SPD acknowledges and agrees that all sums claimed by such Contractors as being due and owing for works and services performed or accruing on account of any act, omission or event prior to such date shall constitute debt between the SPD and such Contractors, and Railways shall not in any manner be liable for such sums. It is further agreed that in the event Railways elects to cure any outstanding defaults under such Project Agreements, the amount expended by Railways for this purpose shall be deducted from the Termination Payment.

28.7. Survival of rights

Notwithstanding anything to the contrary contained in this Agreement, but subject to the provisions of Clause 28.3.6, any Termination pursuant to the provisions of this Agreement shall be without prejudice to the accrued rights of either Party including its right to claim and recover money damages, insurance proceeds, security deposits, and other rights and remedies, which it may have in law or contract. All rights and obligations of either Party under this Agreement, including Termination Payments and Divestment Requirements, shall survive the Termination to the extent such survival is necessary for giving effect to such rights and obligations.

28.8. Buyback Option

As long as a Railways Default has not occurred, Railways has the option to purchase the Solar Rooftop Power System by paying the SPD the Buyback Price as per Schedule M to this Agreement Railways may exercise this option anytime during the Agreement period based on the prevalent conditions. To exercise its purchase option, Railways will, not less than Ninety (90) days prior to the proposed Purchase Date, provide written notice to the Solar Company of Railways' intent to exercise its option to purchase the System on such Purchase Date.

In the event Railways confirms its intention to exercise the purchase option in writing to the SPD,

i. Railways will pay the applicable Buyback Price to the SPD on the Purchase Date, such payment to be made in accordance with any written instructions delivered to Railways by the SPD for payments under the Agreement, and

ii. the Parties will promptly execute all documents necessary to

a) cause title to the System to pass to Railways on the Purchase Date, free and clear of all liens, and

b) assign all vendor warranties for the System to Railways. Upon execution of the documents and payment of the applicable Buyback Price, in each case as described in the preceding sentence, the Agreement will terminate automatically and Railways will become the owner of the System.

Upon such termination, the Solar Company will offer its operations and maintenance ("O&M") services to Railways and the Parties may enter into an O&M agreement in this regard. The terms and conditions of the O&M agreement will be negotiated in good faith between the Parties.

ARTICLE 29

ASSIGNMENT AND CHARGES

29.1. Restrictions on assignment and charges

29.1.1. Subject to Clauses 29.2 and 29.3, this Agreement shall not be assigned by the SPD to any person, save and except with the prior consent in writing of Railways, which consent Railways shall be entitled to decline without assigning any reason.

29.1.2. Subject to the provisions of Clause 29.2, the SPD shall not create nor permit to subsist any Encumbrance, or otherwise transfer or dispose of all or any of its rights and benefits under this Agreement or any Project Agreement to which the SPD is a party except with prior consent in writing of Railways, which consent Railways shall be entitled to decline without assigning any reason.

29.2. Permitted assignment and charges

The restraints set forth in Clause 29.1 shall not apply to:

(a) liens arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Project;

(b) mortgages/pledges/hypothecation of goods/assets other than Project Assets and their related documents of title, arising or created in the ordinary course of business of the Project, and as security only for indebtedness to the Senior Lenders under the Financing Agreements and/or for working capital arrangements for the Project;

(c) assignment of rights, interest and obligations of the SPD to or in favour of the Lenders‟ Representative as nominee and for the benefit of the

Senior Lenders, to the extent covered by and in accordance with the Substitution Agreement as security for financing provided by Senior Lenders under the Financing Agreements; and

(d) liens or encumbrances required by any Applicable Law.

29.3. Substitution Agreement

The Lenders‟ Representative, on behalf of Senior Lenders, may exercise the right to substitute the SPD pursuant to the agreement for substitution of the SPD (the "**Substitution Agreement**") to be entered into amongst the SPD, Railways and the Lenders‟ Representative, on behalf of Senior Lenders, substantially in the form set forth in Schedule – L.

Upon substitution of the SPD under and in accordance with the Substitution Agreement, the Nominated Company substituting the SPD shall be deemed to be the SPD under this Agreement and shall enjoy all rights and be responsible for all obligations of the SPD under this Agreement as if it were the SPD; provided that where the SPD is in breach of this Agreement on the date of such substitution, Railways shall by notice grant a Cure Period of [120 (one hundred and twenty) days] to the SPD for curing such breach.

29.4. Assignment by Railways

Notwithstanding anything to the contrary contained in this Agreement, Railways may, after giving [60 (sixty)] days' notice to the SPD, assign and/ or transfer any of its rights and benefits and/or obligations under this Agreement to an assignee who is, in the reasonable opinion of Railways, capable of fulfilling all of Railways' then outstanding obligations under this Agreement.

ARTICLE 30

CHANGE IN LAW

30.1. Increase in costs

If as a result of Change in Law, the SPD suffers an increase in costs or reduction in net after-tax return or other financial burden, the aggregate financial effect of which exceeds the higher of Rs. [1] crore (Rupees one crore)[*****] and 0.5% (zero point five per cent) of the Tariff [] in any Accounting Year, the SPD may so notify Railways and propose amendments to this Agreement so as to place the SPD in the same financial position as it would have enjoyed had there been no such Change in Law resulting in the cost increase, reduction in return or other financial burden as aforesaid. Upon notice by the SPD, the Parties shall meet, as soon as reasonably practicable, but no later than [30 (thirty)] days from the date of notice and either agree on amendments to this Agreement or on any other mutually agreed arrangement:

Provided that if no agreement is reached within 90 (ninety) days of the aforesaid notice, the SPD may by notice require Railways to pay an amount that would place the SPD in the same financial position that it would have enjoyed had there been no such Change in Law and within 15 (fifteen) days of receipt of such notice, along with particulars thereof, Railways shall pay the amount specified therein; provided that if Railways shall dispute such claim of the SPD, the same shall be settled in accordance with the Dispute Resolution Procedure. For the avoidance of doubt, it is agreed that this Clause 30.1 shall be restricted to changes in law directly affecting the SPD‟s costs of performing its obligations under this Agreement.

30.2. Reduction in costs

If as a result of Change in Law, the SPD benefits from a reduction in costs or increase in net after-tax return or other financial gains, the aggregate financial effect of which exceeds the higher of Rs. 1 crore (Rupees one crore) and 0.5% (zero point five per cent) of the Tariff [] in any Accounting Year, Railways may so notify the SPD and propose amendments to this Agreement so as to place the SPD in the same financial position as it would have enjoyed had there been no such Change in Law resulting in the decreased costs, increase in return or other financial gains as aforesaid. Upon notice by Railways, the Parties shall meet, as soon as reasonably practicable, but no later than 30 (thirty) days from the date of notice, and either agree on such amendments to this Agreement or on any other mutually agreed arrangement:

Provided that if no agreement is reached within 90 (ninety) days of the aforesaid notice, Railways may by notice require the SPD to pay an amount that would place the SPD in the same financial position that it would have enjoyed had there been no such Change in Law, and within 15 (fifteen) days of receipt of such notice, along with particulars thereof, the SPD shall pay the amount specified therein to Railways; provided that if the SPD shall dispute such claim of Railways, the same shall be settled in accordance with the Dispute Resolution Procedure. For the avoidance of doubt, it is agreed that this Clause 30.2 shall be restricted to changes in law directly affecting the SPD‟s costs of performing its obligations under this Agreement.

[*****] This amount may, in the discretion of the Railway, be suitably increased, but in no case exceeding a ratio of [Rs. 1 cr. for every Rs. 500 cr.] of Total Project Cost.

30.3. Protection of NPV

Pursuant to the provisions of Clauses 30.1 and 30.2 and for the purposes of placing the SPD in the same financial position as it would have enjoyed had there been no Change in Law affecting the costs, returns or other financial burden or gains, the Parties shall rely on the Financial Model to establish a net present value (the "**NPV**") of the net cash flow and make necessary adjustments in costs, revenues, compensation or other relevant parameters, as the case may be, to procure that the NPV of the net cash flow is the same as it would have been if no Change in Law had occurred.

30.4. Restriction on cash compensation

The Parties acknowledge and agree that the demand for cash compensation under this Article 30 shall be restricted to the effect of Change in Law during the respective Accounting Year and shall be made at any time after commencement of such year, but no later than one year from the close of such Accounting Year. Any demand for cash compensation payable for and in respect of any subsequent Accounting Year shall be made after the commencement of the Accounting Year to which the demand pertains, but no later than 2 (two) years from the close of such Accounting Year.

ARTICLE 31

LIABILITY AND INDEMNITY

31.1. General indemnity

31.1.1. The SPD will indemnify, defend, save and hold harmless Railways and its officers, servants, agents, Government Instrumentalities and Railways owned and/or controlled entities/enterprises, (the "**Railways Indemnified Persons**") against any and all suits, proceedings, actions, demands and claims from third parties for any loss, damage, cost and expense of whatever kind and nature, whether arising out of any breach by the SPD of any of its obligations under this Agreement or any related agreement or on account of any defect or deficiency in the provision of services by the SPD to any consignor or from any negligence of the SPD under contract or tort or on any other ground whatsoever, except to the extent that any such suits, proceedings, actions, demands and claims have arisen due to any negligent act or omission, or breach or default of this Agreement on the part of Railways Indemnified Persons.

31.1.2. Railways will indemnify, defend, save and hold harmless the SPD against any and all suits, proceedings, actions, demands and claims from third parties for any loss, damage, cost and expense of whatever kind and nature arising out of (i) defect in title and/or the rights of Railways in the land comprised in the Site, and/or (ii) breach by Railways of any of its obligations under this Agreement or any related agreement, which materially and adversely affect the performance by the SPD of its obligations under this Agreement, save and except that where any such claim, suit, proceeding, action, and/or demand has arisen due to a negligent act or omission, or breach of any of its obligations under any provision of this Agreement or any related agreement and/or breach of its statutory duty on the part of the SPD, its subsidiaries, affiliates, contractors, servants or agents, the same shall be the liability of the SPD.

31.2. Indemnity by the SPD

31.2.1. Without limiting the generality of Clause 39.1, the SPD shall fully indemnify, hold harmless and defend Railways and Railways Indemnified Persons from and against any and all loss and/or damages arising out of or with respect to:

a. failure of the SPD to comply with Applicable Laws and Applicable Permits;

b. payment of taxes required to be made by the SPD in respect of the income or other taxes of the SPD`s contractors, suppliers and representatives; or

c. non-payment of amounts due as a result of materials or services furnished to the SPD or any of its contractors which are payable by the SPD or any of its contractors.

31.2.2. Without limiting the generality of the provisions of this Article 39, the SPD shall fully indemnify, hold harmless and defend Railways Indemnified Persons from and against any and all suits, proceedings, actions, claims, demands, liabilities and damages which Railways Indemnified Persons may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to any materials, information, design or process used by the SPD or by the SPD‟s Contractors in performing the SPD‟s obligations or in any way incorporated in or related to the Project. If in any such suit, action, claim or proceedings, a temporary

restraint order or preliminary injunction is granted, the SPD shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the revocation or suspension of the injunction or restraint order. If, in any such suit, action, claim or proceedings, the Solar Rooftop Power systemor any part thereof or comprised therein, is held to constitute an infringement and its use is permanently enjoined, the SPD shall promptly make every reasonable effort to secure for Railways a licence, at no cost to Railways, authorising continued use of the infringing work. If the SPD is unable to secure such licence within a reasonable time, the SPD shall, at its own expense, and without impairing the Specifications and Standards, either replace the affected work, or part, or process thereof with non-infringing work or part or process, or modify the same so that it becomes non-infringing.

31.3. Notice and contest of claims

In the event that either Party receives a claim or demand from a third party in respect of which it is entitled to the benefit of an indemnity under this Article 39 (the "**Indemnified Party**") it shall notify the other Party (the "**Indemnifying Party**") within 15 (fifteen)days of receipt of the claim or demand and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim or demand, it may conduct the proceedings in the name of the Indemnified Party, subject to the Indemnified Party being secured against any costs involved, to its reasonable satisfaction.

31.4. Defence of claims

31.4.1. The Indemnified Party shall have the right, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder, and reasonable costs and expenses thereof shall be indemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party in respect of loss to the full extent provided by this Article 39, the Indemnifying Party shall be entitled, at its option, to assume and control the defence of such claim, action, suit or proceeding, liabilities, payments and obligations at its expense and through the counsel of its choice; provided it gives prompt notice of its intention to do so to the Indemnified Party and reimburses the Indemnified Party for the reasonable cost and expenses incurred by the Indemnified Party prior to the assumption by the Indemnifying Party of such defence. The Indemnifying Party shall not be entitled to settle or compromise any claim, demand, action, suit or proceeding without the prior written consent of the Indemnified Party, unless the Indemnifying Party provides such security to the Indemnified Party as shall be reasonably required by the Indemnified Party to secure the loss to be indemnified hereunder to the extent so compromised or settled.

31.4.2. If the Indemnifying Party has exercised its rights under Clause 39.3, the Indemnified Party shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

31.4.3. If the Indemnifying Party exercises its rights under Clause 39.3, the Indemnified Party shall nevertheless have the right to employ its own counsel, and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party, when and as incurred, unless:

(a) the employment of counsel by such party has been authorised in writing by the Indemnifying Party; or

(b) the Indemnified Party shall have reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in the conduct of the defence of such action; or

(c) the Indemnifying Party shall not, in fact, have employed independent counsel reasonably satisfactory to the Indemnified Party, to assume the defence of such action and shall have been so notified by the Indemnified Party; or

(d) the Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either:

(i) that there may be specific defences available to it which are different from or additional to those available to the Indemnifying Party; or

(ii) that such claim, action, suit or proceeding involves or could have a material adverse effect upon it beyond the scope of this Agreement:

Provided that if Sub-clauses (b), (c) or (d) of this Clause 39.4.3 shall be applicable, the counsel for the Indemnified Party shall have the right to direct the defence of such claim, demand, action, suit or proceeding on behalf of the Indemnified Party, and the reasonable fees and disbursements of such counsel shall constitute legal or other expenses hereunder.

31.5. No consequential claims

Notwithstanding anything to the contrary contained in this Article 39, the indemnities herein provided shall not include any claim or recovery in respect of any cost, expense, loss or damage of an indirect, incidental or consequential nature, including loss of profit, except as expressly provided in this Agreement.

31.6. Survival on Termination

The provisions of this Article 31shall survive Termination.

ARTICLE 32

RIGHTS AND TITLE OVER THE SITE

32.1. Rights

For the purpose of this Agreement, the SPD shall have rights to the use of the roof subject to and in accordance with this Agreement, and to this end, it may regulate the entry and use of the Rail System by third parties in accordance with and subject to the provisions of this Agreement.

32.2. Access rights of Railways and othersAccess to Rooftops for solar rooftop deployment and operation

32.3.1. Railways will grant to the SPD and its representatives, for the Term of the Agreement, a non-exclusive right-of-way for vehicular and pedestrian ingress and egress to the Relevant Premises and to the Facility Installation to be established by the SPD on each of the Relevant Premises to the extent as mutually agreed upon by the Parties (the "Access Rights"). Railways will give access to and permission to initiate work on each of the Relevant Premises no later than sixty (60) days from the Effective date of this agreement.

Access to Premises

32.3.2. The SPD will give the Railways a schedule and reasonable written notice before any entry onto the Relevant Premises by the SPD's employees, agents or contractors. Railways will make available to the SPD access to the Facility Installation and the Relevant Premises for the purposes set below. Notwithstanding anything to the contrary in this Agreement, the SPD shall be permitted to access the Relevant Premises twenty-four (24) hours a day, seven (7) days a week for emergency purposes, as reasonably determined by the SPD. Within twenty-four (24) hours of such emergency access, the SPD shall provide the Railways with a written explanation of the nature of the emergency.

32.3.3. The SPD shall allow free access to the Site at all times for the authorized representatives of Railways, Senior Lenders, and the Railway Electrical Engineer, and for the persons duly authorized by any Government Instrumentality to inspect the project site and to investigate any matter within their authority, and upon reasonable notice, the SPD shall provide to such persons reasonable assistance necessary to carry out their respective duties and functions.

32.3. Property taxes

Property taxes on the Facility, if applicable shall be payable by Railways as owner of the Site. provided, however, that any such taxes payable by the SPD under Applicable Laws for use of the Site shall not be reimbursed or payable by Railways.

32.4. Restriction on sub-letting

The SPD shall not sub-license or sub-let the whole or any part of the Facility, save and except as may be expressly set forth in this Agreement; provided that nothing contained herein shall be construed or interpreted as restricting the right of the SPD to appoint Contractors for the performance of its obligations hereunder including for maintenance of all or any part of the project.

ARTICLE 33

DISPUTE RESOLUTION

33.1. Dispute resolution

33.1.1. Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the "**Dispute**") shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 33.2.

33.1.2. The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

33.2. Conciliation

In the event of any Dispute between the Parties, either Party may call upon the Railway Electrical Engineer to mediate and assist the Parties in arriving at an amicable settlement thereof. Failing mediation by the Railway Electrical Engineer or without the intervention of the Railway Electrical Engineer, either Party may require such Dispute to be referred to [Insert the designation of the Person authorized in this behalf] and the Chairman of the Board of Directors of the SPD for amicable settlement, and upon such reference, the said persons shall meet no later than [7 (seven)] days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the [7 (seven)] day period or the Dispute is not amicably settled within [15 (fifteen)] days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within [30 (thirty)] days of the notice in writing referred to in Clause 33.1.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 31.3.

33.3. Arbitration

33.3.1. If the efforts, to resolve all or any of the Disputes through conciliation fail, then such disputes shall be referred to a sole arbitrator if the total value of the claim is up to Rs.[5 million]; and to a panel of three arbitrators if total value of claims is [Railways] than Rs.[5 million]. For this purpose, Railways will make out a panel of engineers with the requisite qualification and professional experience relevant to the field to which the Agreement relates. This panel will be from among serving or retired government employees or of public sector. Railways shall provide a panel of three arbitrators for claims up to Rs.[5 million] and a panel of five arbitrators for claims of Railways than Rs.[5 million]. SPD shall choose the sole arbitrator from the panel of three and/or one arbitrator from the panel of five in case three arbitrators are to be appointed. The Railways shall also choose one arbitrator from this panel of five and the two so chosen will choose the third arbitrator from the panel only. The arbitrator(s) shall be appointed within a period of [30] days from the date of receipt of written notice/ demand of appointment of arbitrator from either Party.

33.3.2. The venue of such arbitration shall be _____. The arbitral award shall be binding on both Parties. The cost of arbitration shall be equally shared by both Parties.

33.3.3. The sole arbitrator or the Arbitral Tribunal shall give his award within [12] months from the date of his entering on the reference or within extended time, as the parties may consent for the same, as the case may be on all the matters referred to him and shall indicated his/their finding, along with sum awarded, separately on each individual item of dispute. In case the matter is referred to arbitral tribunal for adjudication and the views of two arbitrators differs on the issue then view of presiding arbitrator shall prevail. The demand of arbitration shall specify the matters which are in question or subject of the dispute or differences as also the amount of claim item wise, together with counter claims or set off shall be referred to arbitration and other matters shall not be included in the reference. The arbitration proceedings shall be governed by the Indian Arbitration and Conciliation Act, 1996, as amended from time to time including provisions in force at the time the reference is made.

33.3.4. During the dispute resolution period, both the Parties shall continue to perform their respective obligations as per provisions of the Agreement.

33.3.5. This Section is severable from the rest of this Agreement and shall remain in effect even if this Agreement is terminated for any reason.

33.4. Arbitration

33.4.1. Any Dispute which is not resolved amicably by conciliation, as provided in Clause 33.2, shall be finally decided by reference to arbitration by a board of arbitrators appointed in accordance with Clause 33.3.2. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the "**Rules**"), or such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration Act. The venue of such arbitration shall be [Delhi], and the language of arbitration proceedings shall be English.

33.4.2. There shall be a board of [3 (three)] arbitrators, of whom each Party shall select one, and the third arbitrator shall be appointed by the [2 (two)] arbitrators so selected, and in the event of disagreement between the [2 (two)] arbitrators, the appointment shall be made in accordance with the Rules.

33.4.3. The arbitrators shall make a reasoned award (the "Award"). Any Award made in any arbitration held pursuant to this Article 33 shall be final and binding on the Parties as from the date it is made, and the SPD and Railways agree and undertake to carry out such Award without delay.

33.4.4. The SPD and Railways agree that an Award may be enforced against the SPD and/or Railways, as the case may be, and their respective assets wherever situated.

33.4.5. This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.

33.5. Adjudication by Regulatory Authority or Commission

In the event of constitution of a statutory Regulatory Authority or Commission with powers to adjudicate upon disputes between the SPD and Railways, all Disputes arising after such constitution shall, instead of reference to arbitration under Clause 33.3, be adjudicated upon by such Regulatory Authority or Commission in accordance with the Applicable Law and all references to Dispute Resolution Procedure shall be construed accordingly. For the avoidance of doubt, the Parties hereto agree that the adjudication hereunder shall not be final and binding until an appeal against such adjudication has been decided by an appellate tribunal or High Court, as the case may be, or no such appeal has been preferred within the time specified in the Applicable Law.

ARTICLE 34

DISCLOSURE

34.1. Disclosure of Specified Documents

The SPD, on request of Railways, shall make available for inspection by any person, copies of this Agreement, the Maintenance Manual, the Maintenance Programme and the Maintenance Requirements (hereinafter collectively referred to as the "**Specified Documents**"), free of charge, during normal business hours on all working days at the SPD's Registered Office.

34.2. Disclosure of Documents relating to safety

The SPD shall, on request of Railways, make available for inspection by any person copies of all Documents and data relating to safety of the Project, free of charge, during normal business hours on all working days, at the SPD's

Registered Office. The SPD shall make copies of the same available to any person upon payment of copying charges on a "no profit no loss" basis.

34.3. Withholding disclosure of Protected Documents

Notwithstanding the provisions of Clauses 34.1 and 34.2, Railways shall be entitled to direct the SPD, from time to time, to withhold the disclosure of Protected Documents (as defined herein below) to any person in pursuance of the aforesaid Clauses.

Explanation:

The expression Protected Documents shall mean such of the Specified Documents or documents referred to in Clauses 34.1 and 34.2, or portions thereof, the disclosure of which Railways is entitled to withhold under the provisions of the Right to Information Act, 2005.

Article 35

FORCE MAJEURE

35.1. Force Majeure

As used in this Agreement, the expression "**Force Majeure**" or "**Force Majeure Event**" shall mean occurrence in India of any or all of **Non-Political Event**, Indirect Political Event and Political Event, as defined in Clauses 35.2, 35.3 and 35.4 respectively, if it affects the performance by the Party claiming the benefit of Force Majeure (the "**Affected Party**") of its obligations under this Agreement and which act or event (i) is beyond the reasonable control of the Affected Party, and (ii) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (iii) has Material Adverse Effect on the Affected Party.

35.2. Non-Political Event

A Non-Political Event shall mean one or more of the following acts or events:

a. act of God, epidemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionising radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Site);

b. strikes or boycotts (other than those involving the SPD, Contractors or their respective employees/representatives, or attributable to any act or omission of any of them) interrupting supplies and services to the Rail System for a continuous period of 24 (twenty four) hours and an aggregate period exceeding 7 (seven) days in an Accounting Year, and not being an Indirect Political Event set forth in Clause 35.3;

c. any failure or delay of a Contractor but only to the extent caused by another Non-Political Event and which does not result in any offsetting compensation being payable to the SPD by or on behalf of such Contractor;

d. any delay or failure of an overseas contractor to deliver equipment in India if such delay or failure is caused outside India by any event specified in Sub-clause (a) above and which does not result in any offsetting compensation being payable to the SPD by or on behalf of such contractor;

e. any judgement or order of any court of competent jurisdiction or statutory authority made against the SPD in any proceedings for reasons other than (i) failure of the SPD to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement by Railways;

f. the discovery of geological conditions, toxic contamination or archaeological remains on the Site that could not reasonably have been expected to be discovered through a site inspection; or

g. any event or circumstances of a nature analogous to any of the foregoing.

35.3. Indirect Political Event

An Indirect Political Event shall mean one or more of the following acts or events:

(a) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;

(b) industry-wide or State-wide strikes or industrial action for a continuous period of 24 (twenty four) hours and exceeding an aggregate period of 7 (seven) days in an Accounting Year;

(c) any failure or delay of a Contractor to the extent caused by any Indirect Political Event and which does not result in any offsetting compensation being payable to the SPD by or on behalf of such Contractor;

(d) any Indirect Political Event that causes a Non-Political Event; or

(e) any event or circumstances of a nature analogous to any of the foregoing.

35.4. Political Event

A Political Event shall mean one or more of the following acts or events by or on account of any Government Instrumentality:

(f) Change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Article 38 and its effect, in financial terms, exceeds the sum specified in Clause 30.1;

(g) compulsory acquisition in national interest or expropriation of any Project Assets or rights of the SPD or of the Contractors;

(h) unlawful or unauthorised or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, licence, permit, authorisation, no objection certificate, consent, approval or exemption required by the SPD or any of the Contractors to perform their respective obligations under this Agreement and the Project Agreements; provided that such delay, modification, denial, refusal or revocation did not result from the

SPD's or any Contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, licence, authorisation, no objection certificate, exemption, consent, approval or permit;

35.5.

(i) any failure or delay of a Contractor but only to the extent caused by another Political Event and which does not result in any offsetting compensation being payable to the SPD by or on behalf of such Contractor; or

(j) any event or circumstance of a nature analogous to any of the foregoing.

35.6. Duty to report Force Majeure Event

35.5.1. Upon occurrence of a Force Majeure Event, the Affected Party shall by notice report such occurrence to the other Party forthwith. Any notice pursuant hereto shall include full particulars of:

(a) he nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article 31 with evidence in support thereof;

(b) the estimated duration and the effect or probable effect which such Force Majeure Event is having or will have on the Affected Party‟s performance of its obligations under this Agreement;

(c) the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event; and

(d) any other information relevant to the Affected Party‟s claim.

The Affected Party shall not be entitled to any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event no later than 7 (seven) days after the Affected Party knew, or ought reasonably to have known, of its occurrence, and shall have given particulars of the probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under this Agreement. For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required by Clause 35.5.1, and such other information as the other Party may reasonably request the Affected Party to provide.

35.7. Effect of Force Majeure Event on the Agreement

35.6.1. Upon the occurrence of any Force Majeure Event prior to the Appointed Date, the period set forth in Clause 21.1.1 for achieving Financial Close shall be extended by a period equal in length to the duration of the Force Majeure Event.
At any time after the Appointed Date, if any Force Majeure Event occurs, the Agreement Period and the dates set forth in the Project Completion Schedule shall be extended by a period equal in length to the duration for which such Force Majeure Event subsists.

35.8. Allocation of costs arising out of Force Majeure

35.7.1. Upon occurrence of any Force Majeure Event prior to the Appointed Date, the Parties shall bear their respective costs and no Party shall be required to pay to the other Party any costs thereof.

35.7.2. Upon occurrence of a Force Majeure Event after the Appointed Date, the costs incurred and attributable to such event and directly relating to the Project (the "Force Majeure Costs")shall be allocated and paid as follows:

a. upon occurrence of a Non-Political Event, the Parties shall bear their respective Force Majeure Costs and neither Party shall be required to pay to the other Party any costs thereof;

a. upon occurrence of an Indirect Political Event, all Force Majeure Costs attributable to such Indirect Political Event, and not exceeding the Insurance Cover for such Indirect Political Event, shall be borne by the SPD, and to the extent Force Majeure Costs exceed such Insurance Cover, one half of such excess amount shall be reimbursed by Railways to the SPD; and

b. Upon occurrence of a Political Event, all Force Majeure Costs attributable to such Political Event shall be reimbursed by Railways to the SPD.

35.7.3. For the avoidance of doubt, Force Majeure Costs may include interest payments on debt, O&M Expenses, any increase in the cost of Construction Works on account of inflation and all other costs directly attributable to the Force Majeure Event, but shall not include debt repayment obligations, and for determining such costs, information contained in the Financial Package may be relied upon to the extent that such information is relevant.

35.7.4. Save and except as expressly provided in this Article 31, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereto.

35.9. Termination Notice for Force Majeure Event

If a Force Majeure Event subsists for a period of 180 (one hundred and eighty) days or more within a continuous period of 365 (three hundred and sixty five) days, either Party may in its discretion terminate this Agreement by issuing a Termination Notice to the other Party without being liable in any manner whatsoever, save as provided in this Article 31, and upon issue of such Termination Notice, this Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith; provided that before issuing such Termination Notice, the Party intending to issue the Termination Notice shall inform the other Party of such intention and grant 15 (fifteen) days-time to make a representation, and may after the expiry of such 15 (fifteen) days period, whether or not it is in receipt of such representation, in its sole discretion issue the Termination Notice.

35.10. Termination Notice and Payment for Force Majeure Event

35.10.1.The provisions are set under Article 28 of his agreement.

35.10.2.If Termination is on account of a Non-Political Event, Railways shall make a Termination Payment to the Agreement in an amount equal to 90% (ninety per cent) of the Debt Due less Insurance Cover.

35.10.3.If Termination is on account of an Indirect Political Event, Railways shall make a Termination Payment to the SPD in an amount equal to:

35.10.4.Debt Due less Insurance Cover; provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, then 80% (eighty per cent) of such unpaid claims shall be included in the computation of Debt Due;

35.10.5.110% (one hundred and ten per cent) of the Adjusted Equity; and

35.10.6.an amount equivalent to the Additional Termination Payment less Insurance Cover; provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, then 80% (eighty per cent) of such unpaid claims shall be included in computation of the amount payable hereunder.

35.10.7.If Termination is on account of a Political Event, Railways shall make a Termination Payment to the SPD in an amount that would be payable under Clause 35.3.2 as if it were a Railways Default.

35.11. Dispute resolution

In the event that the Parties are unable to agree in good faith about the occurrence or existence of a Force Majeure Event, such Dispute shall be finally settled in accordance with the Dispute Resolution Procedure; provided that the burden of proof as to the occurrence or existence of such Force Majeure Event shall be upon the Party claiming relief and/or excuse on account of such Force Majeure Event.

35.12. Excuse from performance of obligations

If the Affected Party is rendered wholly or partially unable to perform its obligations under this Agreement because of a Force Majeure Event, it shall be excused from performance of such of its obligations to the extent it is unable to perform on account of such Force Majeure Event; provided that:

(a) the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

(b) the Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence; and

(c) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.

Schedule A

Project Development

1. Project development - The SPD shall be obligated to perform following Scope of Work in relation to the Project. The Scope of Work of the SPD includes, but is not limited to, the following:

   1.1. Design, develop, procure, construct and commission, operate and maintain various roof mounted SPV power packs totalling to capacity of [***,000 kW], which includes, but is not limited to the following:

      a. Solar PV modules.
      b. Mounting frames, structures, array foundation (grouting on terrace), earthing grid design, and module inter-connection.
      c. All System Junction boxes.
      d. Power Conditioning Units (PCU) with monitoring.
      e. Appropriate AC power evacuation panels or inverters, according to Project Site requirements, with bus bars (in-built or otherwise) and circuit breakers.
      f. Protection/isolation systems.
      g. Power and Control Cables.
      h. Earthing system for PV Array, DC power system, lightning protection system.
      i. Data monitoring system with remote monitoring facilities.
      j. Transportation, unloading, and loading of all equipment at Project Site.
      k. Project Management including adherence to all requisite safety practices.
      l. MPPT – Max power point tracking built in the PCU
      m. Fire fighting and fire detection systems
      n. Making arrangements for water in the plant area for module cleaning along with cleaning mechanism;
      o. Control room/ panel (which ever may be found appropriate) for the plant built in suitable material, with proper ventilation for temperature control of the equipment and serviceability within the building. Alternatively, the existing meter room can be utilized after proper designing and approvals of the building owner.

   1.2. Installation and Commissioning of various roof mounted SPV power packs totalling to capacity of [**,000] kW, that includes:

      a. Design and construction of foundations / grouting for holding module mounting structures without puncturing the roof; maintaining proper drainage of rain water over terrace through the installation area; cable routings through PVC pipes not obstructing the movement on the terrace.
      b. Before commencement of work, the SPD to obtain all approvals for related drawings to be obtained from the concerned authorities.
      c. All drawings shall conform to relevant IS standards.
      d. Special care to be taken while designing all structures for modules to cater to heavy rainfall, strong winds and earthquake that may be prevalent in the area.
      e. Pre-commissioning and Commissioning of all supplied equipment.
      f. Test running of the grid-connected solar Facility including load trials at Project Site, prior to handover and commencing energy export for metering.

g. Grid commissioning; the plant needs to be grid interactive. Interconnection points to be checked and certified by Railwaysfor accuracy and safety.
h. Installation of Main Meter and Back up Meter shall be done by the SPD and the SPD shall submit drawings for grid interface for each individual power pack and get approved prior to commencement of work on Project Site.
i. Commissioning certificate from relevant authorities for the Facility.

1.3. General Instructions

a. Construction Water and Construction Power shall be the responsibility of the SPD.
b. Security, safety, watch, and ward of all materials at sites shall be the responsibility of the SPD.
c. The SPD to obtain comprehensive insurance cover for the Project.
d. Liaison with statutory authorities as applicable for all the Project approvals.
e. Expenses for any other works, supply of material, and providing services required for the successful commissioning and operation of the Facility, but not specifically mentioned in this document.
f. Contractor Safety Management to be strictly complied with by the SPD throughout Project activity.
g. First-Aid medical facilities at the Project Site during construction to be provided by the SPD.
h. All local Labour, employment, and other issues shall be handled independently by the SPD.
i. The entire responsibility and risk relating towards the workforce working at the Project Site, and compliance of different statutory regulations like Workman Compensation Act, ESIC, Factory Act 1948, Contract Labour Regulation, and Abolition Act 1970, Shop and Establishment Act 1948, and other Statutory regulatory bodies shall solely lie with the SPD. The SPD shall also be solely responsible for payment of Wages, PF, Bonus, Retrenchment Compensation Leave etc. applicable as per various statutory regulations to their entire workforce, and keep Railways indemnified in this regard against any Claim.

1.4. The following Statutory Clearances to be obtained by the SPD wherever applicable:

a. Electrical System approval (Electrical Inspector)
b. Fire System approval (CFO)
c. All equipment, accessories, materials, civil construction & erection works should comply with statutory requirements and IS standards.
d. All statutory requirements for working at the Project Site like Labour Registration, Workman Compensation Policy, ESIC etc. to be complied with by the Vendor before deployment of resources at the Project Site.

1.5. The SPD shall give undertaking that for the plant period of minimum 25 years all the power packs covered under this project will be operated, maintained and repaired whenever necessary so that all Units are operative and export maximum possible energy to the grid This shall be ensured through undertaking services that include, but are not limited to, the following

a. Daily monitoring of plant performance.
b. Supply of all technical, production/operation data and information through a monthly report.
c. Planned visits on a monthly, quarterly, and annual basis for preventative and

corrective maintenance which include, but are not limited to the following:

i. Clean solar panels on weekly basis or as appropriate to get maximum output from the panels.
ii. Check inverter cabinets (ventilation openings, lighting, leakages in inverter cabinets and cleaning of filters) and inverter maintenance. SPD will keep the necessary spares at the Project Site.
iii. Check security and fire protection system.
iv. Check parts for corrosion.
v. Check the state of tightness of connections, fuses, main junction boxes, etc.

d. Adequate spares to ensure uninterrupted operation and minimum downtime during the entire period.
e. Comprehensive operation and maintenance of the Facility up to the energy meter shall be the responsibility of the SPD.
f. Comprehensive Operation and Maintenance during entire life of the systems shall include supply of spares, consumables, machine breakdown insurance, transpiration, and general comprehensive insurance covering fire, earthquake and provision of security personnel with the insurance policy which shall be taken in the _____'s name as the primary beneficiary. Copies of the Insurance Policies are to be given to the concerned department, as and when taken/renewed. All risks associated with lapses or delays in insurance coverage, during the construction period, shall be at the SPD's cost
g. The SPD shall ensure efficient operation of the Project and the associated facilities to achieve the maximum power generation from the Project. For this purpose the SPD shall engage the services of adequate number of Engineers and Technicians. The SPD shall also attend to all failures, rectifications, breakdown, comprehensive Operation and Maintenance checks. Daily Management Information System (MIS) reports with generation and down time analysis data shall be made available to Railways office by E-mail.

1.6. The SPD should not misuse the area and/or assign responsibility for the safety of machinery within the premises.

Schedule B

SITE OF THE PROJECT

1. **The Site**
   1.1. Site of the Railways shall include the land, buildings, structures and road works as described in Annex-I of this Schedule B.
   1.2. An inventory of the Site including the land, buildings, structures, road works, trees and any other immovable property on, or attached to, the Site shall be prepared jointly by Railways and the SPD.
   1.3. All the piece and parcel of terrace portion of rooftop measuring approximately**** square feet and having shade free area of approximately **** square feet situated on building located at****. It is proposed to install a System of **** kWp capacity on the said premises.

Annex 1

S. N.	Installation Location at Railways	Approx rooftop space available as per survey (sq mtr)	Proposed Power Pack Capacity (kW)	Connecting Voltage (V)	Connected Load (kW)	Annual Power Consumption (kWh)
*	****	*****	*****	******	******	*****

Schedule C

Technical specifications and standards

(**Note:** The most recent specification by MNRE at the time of notifying the tender will be applicable.)

Technical specifications - The proposed projects shall be commissioned as per the technical specifications given below. Any shortcomings will lead to cancelation of subsidy in full or part as decided by Railways & Competent Authority's decision will be final and binding on the bidder.

DEFINITION

A Grid Tied Solar Rooftop Photo Voltaic (SPV) power plant consists of SPV array, Module Mounting Structure, Power Conditioning Unit (PCU) consisting of Maximum Power Point Tracker (MPPT), Inverter, and Controls & Protections, interconnect cables and switches. PV Array is mounted on a suitable structure. Grid tied SPV system is without battery and should be designed with necessary features to supplement the grid power during day time. Components and parts used in the SPV power plants including the PV modules, metallic structures, cables, junction box, switches, PCUs etc., should conform to the BIS or IEC or international specifications, wherever such specifications are available and applicable. Solar PV system shall consist of following equipments/components.

- Solar PV modules consisting of required number of **Crystalline** PV modules.
- Grid interactive Power Conditioning Unit with Remote Monitoring System
- Mounting structures
- Junction Boxes.
- Earthing and lightening protections.
- IR/UV protected PVC Cables, pipes and accessories

1. **SOLAR PHOTOVOLTAIC MODULES:**

   I. The PV modules used should be made in India.

   II. The PV modules used must qualify to the latest edition of IEC PV module qualification test or equivalent BIS standards Crystalline Silicon Solar Cell Modules IEC 61215/IS14286. In addition, the modules must conform to IEC 61730 Part-2- requirements for construction & Part 2 – requirements for testing, for safety qualification or equivalent IS.

   a) For the PV modules to be used in a highly corrosive atmosphere throughout their lifetime, they must qualify to IEC 61701/IS 61701.

   b) The total solar PV array capacity should not be less than allocated capacity (kWp) and should comprise of solar crystalline modules of minimum **250** Wp and above wattage. Module capacity less than minimum **250** watts should not be accepted .

   c) Protective devices against surges a**t th**e PV module shall be provided. Low voltage drop bypass d**iode**s shall be provided.

   d) PV modules must be **test**ed and approved by one of the IEC authorized test center**s.**

   e) The module frame shall be made of corrosion resistant materials, preferably having anodized aluminum.

   f) The bidder shall carefully design & accommodate requisite numbers of the modules to achieve the rated power in his bid. Railway shall allow only minor changes at the time of execution.

   g) Other general requirement for the PV modules and subsystems shall be the following: -

i. The rated output power of any supplied module shall have tolerance of +/- 3%.

ii. The peak-power point voltage and the peak-power point current of any supplied module and/or any module string (series connected modules) shall not vary by more than 2 (two) per cent from the respective arithmetic means for all modules and/or for all module strings, as the case may be.

iii. The module shall be provided with a junction box with either provision of external screw terminal connection or sealed type and with arrangement for provision of by-pass diode. The box shall have hinged, weather proof lid with captive screws and cable gland entry points or may be of sealed type and IP-65 rated.

iv. IV curves at STC should be provided by bidder.

III. Modules deployed must use a RF identification tag. The following information must be mentioned in the RFID used on each modules (This can be inside or outside the laminate, but must be able to withstand harsh environmental conditions).

a) Name of the manufacturer of the PV module

b) Name of the manufacturer of Solar Cells.

c) Month & year of the manufacture (separate for solar cells and modules)

d) Country of origin (separately for solar cells and module)

e) I-V curve for the module Wattage, Im, Vm and FF for the module

f) Unique Serial No and Model No of the module

g) Date and year of obtaining IEC PV module qualification certificate.

h) Name of the test lab issuing IEC certificate.

i) Other relevant information on traceability of solar cells and module as per ISO 9001 and ISO 14001

IV. Warranties:

a) Material Warranty:

i. Material Warranty is defined as: The manufacturer should warrant the Solar Module(s) to be free from the defects and/or failures specified below for a period not less than five (05) years from the date of sale to the original customer ("Customer")

ii. Defects and/or failures due to manufacturing

iii. Defects and/or failures due to quality of materials

iv. Non conformity to specifications due to faulty manufacturing and/or inspection processes. If the solar Module(s) fails to conform to this warranty, the manufacturer will repair or replace the solar module(s), at the Owners sole option

b) Performance Warranty:

i. The predicted electrical degradation of power generated not exceeding 20% of the minimum rated power over the 25 year period and not more than 10% after ten years period of the full rated original output.

V. ARRAY STRUCTURE

a) Hot dip galvanized MS mounting structures may be used for mounting the modules/ panels/arrays. Each structure should have angle of inclination as per the site conditions to take maximum isolation. However to accommodate more capacity the angle inclination may be reduced until the plant meets the specified performance ratio requirements.

b) The Mounting structure shall be so designed to withstand the speed for the wind zone of the location where a PV system is proposed to be installed (like Delhi-wind speed of 150 kM/ hour). It may be ensured that the design has been certified by a recognized Lab/ Institution in this regard and submit wind loading calculation sheet to Railway . Suitable fastening arrangement such as grouting and calming should be provided to secure the installation against the specific wind speed.

c) The mounting structure steel shall be as per latest IS 2062: 1992 and galvanization of the mounting structure shall be in compliance of latest IS 4759.

d) Structural material shall be corrosion resistant and electrolytically compatible with the materials used in the module frame, its fasteners, nuts and bolts. **Aluminum structures also can be used which can withstand the wind speed of respective wind zone**. Necessary protection towards rusting need to be provided either by coating or anodization.
e) The fasteners used should be made up of stainless steel. The structures shall be designed to allow easy replacement of any module. The array structure shall be so designed that it will occupy minimum space without sacrificing the output from the SPV panels
f) Regarding civil structures the bidder need to take care of the load bearing capacity of the roof and need arrange suitable structures based on the quality of roof.
g) The total load of the structure (when installed with PV modules) on the terrace should be less than 60 kg/m2.
h) The minimum clearance of the structure from the roof level should be 300 mm.

VI. JUNCTION BOXES (JBs)

a) The junction boxes are to be provided in the PV array for termination of connecting cables. The J. Boxes (JBs) shall be made of GRP/FRP/Powder Coated Aluminum /cast aluminum alloy with full dust, water & vermin proof arrangement. All wires/cables must be terminated through cable lugs. The JBs shall be such that input & output termination can be made through suitable cable glands.

b) Copper bus bars/terminal blocks housed in the junction box with suitable termination threads Conforming to IP65 standard and IEC 62208 Hinged door with EPDM rubber gasket to prevent water entry. Single / double compression cable glands. Provision of earthings. It should be placed at 5 feet height or above for ease of accessibility.

c) Each Junction Box shall have High quality Suitable capacity Metal Oxide Varistors (MOVs) / SPDs, suitable Reverse Blocking Diodes. The Junction Boxes shall have suitable arrangement monitoring and disconnection for each of the groups.

d) Suitable markings shall be provided on the bus bar for easy identification and the cable ferrules must be fitted at the cable termination points for identification

VII. DC DISTRIBUTION BOARD:

a) DC Distribution panel to receive the DC output from the array field.
b) DC DPBs shall have sheet from enclosure of dust & vermin proof conform to IP 65 protection. The bus bars are made of copper of desired size. Suitable capacity MCBs/MCCB shall be provided for controlling the DC power output to the PCU along with necessary surge arrestors.

VIII. AC DISTRIBUTION PANEL BOARD:

a) AC Distribution Panel Board (DPB) shall control the AC power from PCU/ inverter, and should have necessary surge arrestors. Interconnection from ACDB to mains at LT Bus bar while in grid tied mode.
b) All switches and the circuit breakers, connectors should conform to IEC 60947, part I, II and III/ IS60947 part I, II and III.
c) The changeover switches, cabling work should be undertaken by the bidder as part of the project.
d) All the Panel's shall be metal clad, totally enclosed, rigid, floor mounted, air - insulated, cubical type suitable for operation on three phase / single phase, 415 or 230 volts, 50 Hz
e) The panels shall be designed for minimum expected ambient temperature of 45 degree Celsius, 80 percent humidity and dusty weather.
f) All indoor panels will have protection of IP54 or better. All outdoor panels will have protection of IP65 or better.
g) Should conform to Indian Electricity Act and rules (till last amendment).

h) All the 415 AC or 230 volts devices / equipment like bus support insulators, circuit breakers, SPDs, VTs etc., mounted inside the switchgear shall be suitable for continuous operation and satisfactory performance under the following supply conditions

Variation in supply voltage	+/- 10 %
Variation in supply frequency	+/- 3 Hz

IX. PCU/ARRAY SIZE RATIO:

a) The combined wattage of all inverters should not be less than rated capacity of power plant under STC.

b) Maximum power point tracker shall be integrated in the PCU/inverter to maximize energy drawn from the array.

X. PCU/ Inverter:

As SPV array produce direct current electricity, it is necessary to convert this direct current into alternating current and adjust the voltage levels to match the grid voltage. Conversion shall be achieved using an electronic Inverter and the associated control and protection devices. All these components of the system are termed the "Power Conditioning Unit (PCU)". In addition, the PCU shall also house MPPT (Maximum Power Point Tracker), an interface between Solar PV array & the Inverter, to the power conditioning unit/inverter should also be DG set interactive. If necessary. Inverter output should be compatible with the grid frequency. Typical technical features of the inverter shall be as follows:

Switching devices : IGBT/MOSFET

Control : Microprocessor /DSP

Nominal AC output voltage and frequency : 415V, 3 Phase, 50 Hz (In case single phase inverters are offered, suitable arrangement for balancing the phases must be made.)

Output frequency : 50 Hz

Grid Frequency Synchronization range : + 3 Hz or more

Ambient temperature considered : -20o C to 50o C

Humidity : 95 % Non-condensing

Protection of Enclosure : IP-20(Minimum) for indoor.

: IP-65(Minimum) for outdoor.

Grid Frequency Tolerance range : + 3 or more
Grid Voltage tolerance : - 20% & + 15 %

No-load losses : Less than 1% of rated power

Inverter efficiency(minimum) : >93% (In case of 10kW or above)

Inverter efficiency (minimum) : > 90% (In case of less than 10 kW)

THD : < 3%

PF : > 0.9

a) Three phase PCU/ inverter shall be used with each power plant system (10kW and/or above) but In case of less than 10kW single phase inverter can be used.

b) PCU/inverter shall be capable of complete automatic operation including wake-up, synchronization & shutdown.

c) The output of power factor of PCU inverter is suitable for all voltage ranges or sink of reactive power, inverter should have internal protection arrangement against any sustainable fault in feeder line and against the lightning on feeder.

d) Built-in meter and data logger to monitor plant performance through external computer shall be provided.

e) The power conditioning units / inverters should comply with applicable IEC/ equivalent BIS standard for efficiency measurements and environmental tests as per standard codes IEC 61683/IS 61683 and IEC 60068- 2(1,2,14,30) /Equivalent BIS Std.

f) The charge controller (if any) / MPPT units environmental testing should qualify IEC 60068-2(1, 2, 14, 30)/Equivalent BIS std. The junction boxes/ enclosures should be IP 65(for outdoor)/ IP 54 (indoor) and as per IEC 529 specifications.

g) The PCU/ inverters should be tested from the MNRE approved test centres / NABL /BIS /IEC accredited testing- calibration laboratories. In case of imported power conditioning units, these should be approved by international test houses.

XI. INTEGRATION OF PV POWER WITH GRID:

The output power from SPV would be fed to the inverters which converts DC produced by SPV array to AC and feeds it into the main electricity grid after synchronization. In case of grid failure, or low or high voltage, solar PV system shall be out of synchronization and shall be disconnected from the grid. Once the DG set comes into service PV system shall again be synchronized with DG supply and load requirement would be met to the extent of availability of power. 4 pole isolation of inverter output with respect to the grid/ DG power connection need to be provided.

XII. DATA ACQUISITION SYSTEM / PLANT MONITORING

i. Data Acquisition System shall be provided for each of the solar PV plant.

ii. Data Logging Provision for plant control and monitoring, time and date stamped system data logs for analysis with the high quality, suitable PC. Metering and Instrumentation for display of systems parameters and status indication to be provided.

iii. Solar Irradiance: An integrating Pyranometer / Solar cell based irradiation sensor (along with calibration certificate) provided, with the sensor mounted in the plane of the array. Readout integrated with data logging system.

iv. Temperature: Temperature probes for recording the Solar panel temperature and/or ambient temperature to be provided complete with readouts integrated with the data logging system

v. The following parameters are accessible via the operating interface display in real time separately for solar power plant:

a. AC Voltage.

b. AC Output current.

c. Output Power

d. Power factor.

e. DC Input Voltage.

f. DC Input Current.

g. Time Active.

h. Time disabled.

i. Time Idle.

j. Power produced

k. Protective function limits (Viz-AC Over voltage, AC Under voltage, Over frequency, Under frequency ground fault, PV starting voltage, PV stopping voltage.

vi) All major parameters available on the digital bus and logging facility for energy auditing through the internal microprocessor and read on the digital front panel at any time) and logging facility (the current values, previous values for up to a month and the average values) should be made available for energy auditing through the internal microprocessor and should be read on the digital front panel.

vii) PV array energy production: Digital Energy Meters to log the actual value of AC/ DC voltage, Current & Energy generated by the PV system provided. Energy meter along with CT/PT should be of 0.5 accuracy class.

viii) Computerized DC String/Array monitoring and AC output monitoring shall be provided as part of the inverter and/or string/array combiner box or separately.

ix) String and array DC Voltage, Current and Power, Inverter AC output voltage and current (All 3 phases and lines), AC power (Active, Reactive and Apparent), Power Factor and AC energy (All 3 phases and cumulative) and frequency shall be monitored.

x) Computerized AC energy monitoring shall be in addition to the digital AC energy meter.

xi) The data shall be recorded in a common work sheet chronologically date wise. The data file shall be MS Excel compatible. The data shall be represented in both tabular and graphical form.

xii) All instantaneous data shall be shown on the computer screen.

xiii) Software shall be provided for USB download and analysis of DC and AC parametric data for individual plant.

xiv) Provision for Internet monitoring and download of data shall be also incorporated.

xv) Remote Server and Software for centralized Internet monitoring system shall be also provided for download and analysis of cumulative data of all the plants and the data of the solar radiation and temperature monitoring system.

xvi) Ambient / Solar PV module back surface temperature shall be also monitored on continuous basis.

xvii) Simultaneous monitoring of DC and AC electrical voltage, current, power, energy and other data of the plant for correlation with solar and environment data shall be provided.

xviii) Remote Monitoring and data acquisition through Remote Monitoring System software at the owner /SECI location with latest software/hardware configuration and service connectivity for online / real time data monitoring/control complete to be supplied and operation and maintenance/control to be ensured by the supplier. Provision for interfacing these data on Railway server and portal in future shall be kept.

XIII. TRANSFORMER "IF REQUIRED" & METERING:

a) Dry/oil type relevant kVA, 11kV/415V, 50 Hz Step up along with all protections, switchgears, Vacuum circuit breakers, cables etc. along with required civil work.

b) The bidirectional electronic energy meter (0.5 S class) shall be installed for the measurement of import/Export of energy.

c) The bidder must take approval/NOC from the Concerned DISCOM for the connectivity, technical feasibility, and synchronization of SPV plant with distribution network and submit the same to Railway before commissioning of SPV plant.

d) Reverse power relay shall be provided by bidder (if necessary), as per the local DISCOM requirement.

XIV. POWER CONSUMPTION:

a) Regarding the generated power consumption, priority need to give for internal consumption first and thereafter any excess power can be exported to grid. Finalization of tariff is not under the purview of SECI or MNRE. Decisions of appropriate authority like DISCOM, state regulator may be followed.

XV. PROTECTIONS

The system should be provided with all necessary protections like earthing, Lightning, and grid islanding as follows:

- **LIGHTNING PROTECTION**

a) The SPV power plants shall be provided with lightning &overvoltage protection. The main aim in this protection shall be to reduce the over voltage to a tolerable value before it reaches the PV or other sub system components. The source of over voltage can be lightning, atmosphere disturbances etc The entire space occupying the SPV array shall be suitably protected against Lightning by deploying required number of Lightning Arrestors. Lightning protection should be provided as per IEC 62305standard. The protection against induced high-voltages shall be provided by the use of metal oxide varistors (MOVs) and suitable earthing such that induced transients find an alternate route to earth.

- **SURGE PROTECTION**

a) Internal surge protection shall consist of three MOV type surge-arrestors connected from +ve and –ve terminals to earth (via Y arrangement).

- **EARTHING PROTECTION**

a) Each array structure of the PV yard should be grounded/ earthed properly as per IS:3043-1987. In addition the lighting arrester/masts should also be earthed inside the array field. Earth Resistance shall be tested in presence of the representative of Department/SECI as and when required after earthing by calibrated earth tester. PCU, ACDB and DCDB should also be earthed properly.

b) Earth resistance shall not be more than 5 ohms. It shall be ensured that all the earthing points are bonded together to make them at the same potential.

- **GRID ISLANDING:**

a) In the event of a power failure on the electric grid, it is required that any independent power-producing inverters attached to the grid turn off in a short period of time. This prevents the DC-to-AC inverters from continuing to feed power into small sections of the grid, known as "islands." Powered islands present a risk to workers who may expect the area to be unpowered, and they may also damage grid-tied equipment. The Rooftop PV system shall be equipped with islanding protection. In addition to disconnection from the grid (due to islanding protection) disconnection due to under and over voltage conditions shall also be provided.

b) A manual disconnect 4pole isolation switch beside automatic disconnection to grid would have to be provided at utility end to isolate the grid connection by the utility personnel to carry out any maintenance. This switch shall be locked by the utility personnel.

XVI. CABLES

cables of appropriate size to be used in the system shall have the following characteristics:

- Shall meet IEC 60227/IS 694, IEC 60502/IS1554 standards
- Temp. Range: –10oC to +80oC.
- Voltage rating 660/1000V
- Excellent resistance to heat, cold, water, oil, abrasion, UV radiation
- Flexible
- Sizes of cables between array interconnections, array to junction boxes, junction boxes to Inverter etc. shall be so selected to keep the voltage drop (power loss) of the entire solar system to the minimum. The cables (as per IS) should be insulated with a special grade PVC compound formulated for outdoor use.
- Cable Routing/ Marking: All cable/wires are to be routed in a GI cable tray and suitably tagged and marked with proper manner by good quality ferule or by other means so that the cable easily identified.
- The Cable should be so selected that it should be compatible up to the life of the solar PV panels i.e. 25years.
- The ratings given are approximate. Bidder to indicate size and length as per system design requirement. All the cables required for the plant provided by the bidder. Any change in cabling sizes if desired by the bidder/approved after citing appropriate reasons. All cable schedules/layout drawings approved prior to installation.
- Multi Strand, Annealed high conductivity copper conductor PVC type 'A' pressure extruded insulation or XLPE insulation. Overall PVC/XLPE insulation for UV protection Armoured cable for underground laying. All cable trays including covers to be provided. All cables conform to latest edition of IEC/ equivalent BIS Standards as specified below: BoS item / component Standard Description Standard Number Cables General Test and Measuring Methods, PVC/XLPE insulated cables for working Voltage up to and including 1100 V ,UV resistant for outdoor installation IS /IEC 69947.
- The size of each type of DC cable selected shall be based on minimum voltage drop however; the maximum drop shall be limited to 1%.
- The size of each type of AC cable selected shall be based on minimum voltage drop however; the maximum drop shall be limited to 2 %.

XVII. CONNECTIVITY

The maximum capacity for interconnection with the grid at a specific voltage level shall be as specified in the Distribution Code/Supply Code of the State and amended from time to time. Following criteria have been suggested for selection of voltage level in the distribution system for ready reference of the solar suppliers.

Plant Capacity	**Connecting voltage**
Up to 10 kW	240V-single phase or 415V-three phase at the option of the consumer
Above 10kW and up to 100 kW	415V – three phase
Above 100kW	At HT/EHT level (11kV/33kV/66kV) as per DISCOM rules

a) The maximum permissible capacity for rooftop shall be 1 MW for a single net metering point.

b) Utilities may have voltage levels other than above, DISCOMS may be consulted before finalization of the voltage level and specification be made accordingly.

c) For large PV system (Above 100 kW) for commercial installation having large load, the solar power can be generated at low voltage levels and stepped up to 11 kV level through the step up transformer. The transformers and associated switchgear would require to be provided by the SPV bidders.

XVIII. TOOLS & TACKLES AND SPARES:

a) After completion of installation & commissioning of the power plant, necessary tools & tackles are to be provided free of cost by the bidder for maintenance purpose. List of tools and tackles to be supplied by the bidder for approval of specifications and make from SECI/ owner.

b) A list of requisite spares in case of PCU/inverter comprising of a set of control logic cards, IGBT driver cards etc. Junction Boxes. Fuses, MOVs / arrestors, MCCBs etc along with spare set of PV modules be indicated, which shall be supplied along with the equipment. A minimum set of spares shall be maintained in the plant itself for the entire period of warranty and Operation & Maintenance which upon its use shall be replenished.

XIX. DANGER BOARDS AND SIGNAGES:

a) Danger boards should be provided as and where necessary as per IE Act. /IE rules as amended up to date. Three signage shall be provided one each at battery –cum- control room, solar array area and main entry from administrative block. Text of the signage may be finalized in consultation with SECI/ owner.

XX. FIRE EXTINGUISHERS:

The firefighting system for the proposed power plant for fire protection shall be consisting of:

a) Portable fire extinguishers in the control room for fire caused by electrical short circuits

b) Sand buckets in the control room

c) The installation of Fire Extinguishers should confirm to TAC regulations and BIS standards. The fire extinguishers shall be provided in the control room housing PCUs as well as on the Roof or site where the PV arrays have been installed.

XXI. DRAWINGS & MANUALS:

a) Two sets of Engineering, electrical drawings and Installation and O&M manuals are to be supplied. Bidders shall provide complete technical data sheets for each equipment giving details of the specifications along with make/makes in theirbid along with basic design of the power plant and power evacuation, synchronization along with protection equipment.

b) Approved ISI and reputed makes for equipment be used.

c) For complete electro-mechanical works, bidders shall supply complete design, details and drawings for approval to SECI/owners before progressing with the installation work

XXII. PLANNING AND DESIGNING:

a) The bidder should carry out Shadow Analysis at the site and accordingly design strings & arrays layout considering optimal usage of space, material and labor. The bidder should submit the array layout drawings along with Shadow Analysis Report to SECI/Owner for approval.

b) SECI reserves the right to modify the landscaping design, Layout and specification of sub-systems and components at any stage as per local site conditions/requirements.

c) The bidder shall submit preliminary drawing for approval & based on any modification or recommendation, if any. The bidder submit three sets and soft copy in CD of final drawing for formal approval to proceed with construction work.

XXIII. DRAWINGS TO BE FURNISHED BY BIDDER AFTER AWARD OF CONTRACT

a) The Contractor shall furnish the following drawings Award/Intent and obtain approval

b) General arrangement and dimensioned layout

c) Schematic drawing showing the requirement of SV panel, Power conditioning Unit(s)/ inverter, Junction Boxes, AC and DC Distribution Boards, meters etc.

d) Structural drawing along with foundation details for the structure.

e) Itemized bill of material for complete SV plant covering all the components and associated accessories.

f) Layout of solar Power Array

g) Shadow analysis of the roof

XXIV. SOLAR PV SYSTEM ON THE ROOFTOP FOR MEETING THE ANNUAL ENERGY REQUIREMENT

The Solar PV system on the rooftop of the selected buildings will be installed for meeting upto 90% of the annual energy requirements depending upon the area of rooftop available and the remaining energy requirement of the office buildings will be met by drawing power from grid at commercial tariff of DISCOMs.

XXV. SAFETY MEASURES:

The bidder shall take entire responsibility for electrical safety of the installation(s) including connectivity with the grid and follow all the safety rules & regulations applicable as per Electricity Act, 2003 and CEA guidelines etc.

XXVI. DISPLAY BOARD

The bidder has to display a board at the project site mentioning the following:
a. Plant Name, Capacity, Location, Type of Renewable Energy plant (Like solar wind etc.), Date of commissioning, details of tie-up with transmission and distribution companies, Power generation and Export FY wise.

b. Financial Assistance details from SECI/MNRE/Any other financial institution apart from loan. This information shall not be limited to project site but also be displayed at site offices/head quarter offices of the successful bidder

c. The size and type of board and display shall be approved by Engineer-in-charge before site inspection.

In addition to the above specifications following is also required:

Remote Display

SPD will arrange to install LED based display screens along with relevant hardware at [5] relevant stations and will develop relevant software programs which will display real time generation on a minute, hourly, daily, monthly and annual basis. The cost of development of these systems will have to be borne by the SPD.

TESTING PROCEDURES

The SPD and Railways (or its representatives) shall develop suitable testing procedures three (3) months before the earlier of Scheduled Commercial Operation Date as agreed by the SPD and Railways or, where Phased Commissioning is to be undertaken by SPD, the date proposed by SPD for Commissioning of the first Unit. Such procedures shall take into consideration relevant standards. The procedures mutually agreed by SPD and Railways (or its representatives) in writing shall be deemed to be incorporated in this Agreement. These procedures will conform to the State Net Metering Policies for applicable State of India. The testing procedure for testing of the installed capacity during commissioning will be at the interconnection point will be back calculated based on the electricity generated..

Schedule D

Interconnection Scheme

Interconnection Requirements: Scope of Work for the SPD

A. The project aims to develop a replicable model of decentralized power generation using photovoltaic plants that feed energy to the grid. The scope would include design, manufacture, supply, install and commission and operate for 25 years these SPV power packs

B. All work must be carried out as per the following:
- ✓ Indian Electricity Act and rules therein
- ✓ Indian Electricity Grid Code
- ✓ Regulations of Chief Electrical Inspector

Besides the above measures, certain precautions prescribed by the CEA shall also be incorporated into the solar PV system design:

- PV systems shall be provided with adequate rating fuses, fuses on inverter input side (DC) as well as output side (AC) side for overload and short circuit protection as well as disconnecting switches to isolate the DC and AC system for maintenances.
- Fuses of adequate rating shall also be provided in each solar array module to protect them against short circuit.

C. Phase Imbalance:

- Phase imbalance can occur due to varied power injected into different phases of the grid. Whenever solar power plants (SPPs) of lower capacities with single phase inverters are used to feed power into the grid using a single phase injection point, they tend to induce imbalance. This imbalance can be resolved simply by connecting / injecting power to different phases in the same grid.
- The developer shall have to follow the phase imbalance limits imposed by the Off Taker and shall also have to follow the guidelines before connecting such limits to the grid.
- The injection phase for each system to be injected into a single phase shall be approved by the Off Taker.

D. Energy Meter and Statutory Clearances

a) Energy Meter

Each power pack will be provided with an energy meter for accurate periodical readings of AC energy generated and fed to the grid. This shall be inspected, tested and calibrated at the time of installation and also during operation lifetime of Facility.

b) Statutory clearances to be arranged by the SPD

a) Building and Architectural Drawings approval
b) Factory Inspector approval on drawings, wherever necessary
c) Electrical System approval (Electrical Inspector)
d) Fire System approval (CFO)

e) All statutory requirements for working at the Project Site like Labour Registration, Workman Compensation Policy, ESIC etc.

SCHEDULE –E

SAFETY REQUIREMENTS

1 Guiding principles

1.1 Safety Requirements aim at reduction in injuries, loss of life and damage to property resulting from accidents on the Project, irrespective of the person(s) at fault.

1.2 Users of the Project include staff of the Railways, SPD and its contractors working on the Project.

1.3 Safety Requirements apply to all phases of construction, operation and maintenance with emphasis on identification of factors associated with accidents, consideration of the same, and implementation of appropriate remedial measures.

1.4 Safety Requirements include measures associated with safe movement, safety management, safety equipment, fire safety, enforcement and emergency response etc.

2 Obligations of the SPD

The SPD shall abide by the following insofar as they relate to safety:

(a) Applicable Laws and Approvals;

(b) General and subsidiary Rules, Accident manual & Disaster Management Manual of respective division/ Zonal Railways

(c) Provisions of this Agreement; and

(d) Relevant Standards/Guidelines contained in internationally accepted codes; and

(e) Good Industry Practice.

3 Safety measures during Development Period

3.1 The Parties shall require the Railway Electrical Engineer for carrying out safety audit at the design stage of the Project.

3.2 The SPD shall provide to the Railway Electrical Engineer, in four copies, the relevant drawings containing the design details that have a bearing on safety during development of project (the

"**Safety Drawings**"). The Railway Electrical Engineer shall review the design details and forward [threetwo] copies of the Safety Drawings with its recommendations, if any, to the Railway Electrical Engineer who shall record its comments, if any, and forward one copy each to Railways and the SPD.

3.3 The design details shall be compiled, analysed and used by the Railway Electrical Engineer for evolving a package of recommendations consisting of safety related measures for the Project. The safety audit shall be completed in a period of [one] month and a report thereof (the "**Safety Report**") shall be submitted to Railways, in five copies. One copy of the
Safety Report shall be forwarded by the Railway Electrical Engineer to the SPD.

3.4 The SPD shall endeavour to incorporate the recommendations of the Safety Report in the design of the Project, as may reasonably be required in accordance with Applicable Laws, Manuals and Guidelines of Railways, Specifications and Standards, and Good Industry Practice. If the SPD does not agree with any or all of such recommendations, it shall state the reasons thereof and convey them to Railways forthwith. In the event that any or all of the works and services recommended in the Safety Report fall beyond the scope of the SPD shall make a report thereon and seek the instructions of Railways for funding such works in accordance with the provisions of Article 17.

3.5 Without prejudice to the provisions of Paragraph 4, within [15 (fifteen)] days of receiving the Safety Report, Railways shall review the same and by notice direct the SPD to carry out any or all of the recommendations contained therein with such modifications as Railways may specify; provided that any works or services required to be undertaken hereunder shall be governed by the provisions of Article 17.

4 Safety measures during Construction Period

4.1 No later than 90 days after the signing of this agreement, SPD in consultation with Railway Electrical Engineer will submit safety manual pertaining to construction phase.

4.2 The Railway Electrical Engineer shall carry out a safety audit of the completed Construction Works.

4.3 The Railway Electrical Engineer shall study the Safety Report for the Development Period and inspect the Project to assess the adequacy of safety measures. The Railway Electrical Engineer shall complete the safety audit within a period of [1 (one)] month and submit a Safety Report recommending a package of additional safety measures, if any, that are considered essential for reducing accident hazards on the Project. Such recommendations shall be processed, *mutatis mutandis*, and acted upon in the manner set forth in Paragraphs 3.3, 3.4 and 3.5 of this Schedule-E

4.4 The SPD shall make adequate arrangements during the Construction Period for the safety of workers and road users in accordance with Applicable Laws and Good Industry Practice for safety in construction zones, and notify Railways and the Railway Electrical Engineer about such arrangements. The SPD shall comply with various instructions related to work site safety, as compiled in compendium of Instruction issued by Railways and any other instruction pertaining to work site safety, as may be issued by Railways from time to time.

5 Safety measures during Operation Period

5.1 System integrity

In the design of power supply, circuits and equipment's, particular care shall be taken to minimize the likely incidence of fault.

5.2 Restoration of service

The Project shall be designed such that in the event a fault occurs, a limited service can be provided within a few minutes by isolation of the affected area or equipment, to the extent possible.

5.3 Safety management

5.4 No later than 90 days prior to schedule completion date, SPD in consultation with Railway Electrical Engineer will submit safety manual for operation phase.

5.5 The SPD shall develop, implement and administer a surveillance and safety programme for Users, including correction of safety violations and deficiencies and all other actions necessary to provide a safe environment in accordance with this Agreement.

5.6 The SPD shall keep a copy of every FIR recorded by the Police with respect to any accident occurring on the Project. In addition, the SPD shall also collect data for all cases of accidents not recorded by the Police. The information so collected shall be summarized in the form prescribed by Railways for this purpose. The SPD shall also record the exact location of each accident on a route map. The aforesaid data shall be submitted to Railways at the conclusion of every quarter.

5.7 The SPD shall submit to Railways before the [31st (thirty first) May] of each year, an annual report (in [two] copies) containing, without limitation, a detailed listing and analysis of all accidents of the preceding Year and the measures taken by the SPD pursuant to the provisions of Paragraph 5.1 of this Schedule-E for averting or minimising such accidents in future.

5.8 Once in every Year, a safety audit shall be carried out by the Railway Electrical Engineer. It shall review and analyze the annual report and accident data of the preceding year, and undertake an inspection of the Project. The Railway Electrical Engineer shall complete the safety audit within a period of 1 (one) month and submit a Safety Report recommending specific improvements, if any, required to be made in the Project. Such recommendations shall be processed, *mutatis mutandis*, and acted upon in the manner set forth in Paragraphs 3.3, 3.4 and 3.5 of this Schedule-E.

6 Costs and expenses

Costs and expenses incurred in connection with the Safety Requirements set forth herein, including the provisions of Paragraph 2 of this Schedule-E, shall be met in accordance with Article 19, and in particular, the costs of the safety audit and incidental thereto, shall be met by the SPD.

SCHEDULE F

Approvals

1. To be obtained by the SPD

All approvals including approvals/consents required under local regulations, building codes and approvals required from the Distribution Utility etc relating to installation and operation of the System (including the government incentives/subsidies available for the Project) and generation and supply of solar power from the Project.

2. To be obtained by Railways

Any authorizations required of Railways, including those required for installation of Project at the Premises.

SCHEDULE - G
PERFORMANCE SECURITY

THE PRESIDENT OF INDIA[*** (*Designation of the Signatory*)],
Ministry of Railways (Railway Board),
Government of India
*****

WHEREAS:

(A) ……..(the "**Solar Power Developer**") and the President of India represented by [*** (*Designation of the Signatory*)], Ministry of Railways (Railway Board), Government of India **** ("**Railways**") have entered into a Power Purchase Agreement dated ……(the "**Agreement**") whereby Railways has agreed to the SPD undertaking the construction and operation of the Project for **Implementation of Solar PV rooftop System in _____ OF Railways"** of the capacity of…….. MW, at ……[Insert name of the place] in response to the RFP dated…… issued by Railways (hereinafter referred to as Railways) and Railways considering such response to the RFP of……[insert the name of the selected Solar Power Developer] (which expression shall unless repugnant to the context or meaning thereof include its executers, administrators, successors and assignees) and selecting the Solar Power Project of the Solar Power Developer and issuing LoA No ------- to (Insert Name of selected Solar Power Developer) as per terms of RFP and the same having been accepted by the selected SPD or a Project Company, M/s ---------- {a Special Purpose Vehicle (SPV) formed for this purpose}, if applicable].

(B) The Agreement requires the SPD to furnish a Performance Security to Railways in a sum of Rs***** cr. (Rupees ***** crore) (the "Performance **Guarantee**") as security for due and faithful performance of its obligations, under and in accordance with the Agreement, during the Construction Period (as defined in the Agreement).

(C) We, …… through our Branch at …….(the "**Bank**") have agreed to furnish this Bank Guarantee by way of Performance Security.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

1. The Bank hereby unconditionally and irrevocably guarantees the due and faithful performance of the SPD's obligations during the Construction Period, under and in accordance with the Agreement, and agrees and undertakes to pay to Railways, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the SPD, such sum or sums up-to an aggregate sum of the "**Performance Guarantee**" as Railways shall claim, without Railways being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.

2. A letter from Railways, under the hand of an Officer not below the rank of Deputy Secretary to Railways that the SPD has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that Railways shall be the sole judge as to whether the SPD is in default in due and faithful performance of its obligations during the Construction Period under the Agreement and its decision that the SPD is in default shall be final, and binding on the Bank, notwithstanding any

differences between Railways and the SPD, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the SPD for any reason whatsoever.

3. In order to give effect to this Guarantee, Railways shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the SPD and/or the

Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.

4. It shall not be necessary, and the Bank hereby waives any necessity, for Railways to proceed against the SPD before presenting to the Bank its demand under this Guarantee.

5. Railways shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Agreement or to extend the time or period for the compliance with, fulfilment and/or performance of all or any of the obligations of the SPD contained in the Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by Railways against the SPD, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to Railways, and the Bank shall not be released from its liability and obligation under these presents by any exercise by Railways of the liberty with reference to the matters aforesaid or by reason of time being given to the SPD or any other forbearance, indulgence, act or omission on the part of Railways or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.

6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by Railways in respect of or relating to the Agreement or for the fulfilment, compliance and/or performance of all or any of the obligations of the SPD under the Agreement.

7. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force until the 3rd (third) anniversary of the Appointed Date and unless a demand or claim in writing is made by Railways on the Bank under this Guarantee, no later than 6 (six) months from the date of expiry of this Guarantee, all rights of Railways under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder. Provided, however, that the Performance Security shall not be released if the SPD is in breach of this Agreement.

8. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of Railways in writing, and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.

9. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred Branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of Railways that the envelope was so posted shall be conclusive.

10. This Guarantee shall come into force with immediate effect and shall remain in force and effect for the period stated in paragraph 7 above or until it is released earlier by Railways pursuant to the provisions of the Agreement

Signed and sealed this …… day of ……, 20….. at ……..

SIGNED, SEALED AND DELIVERED
For and on behalf of
The BANK by:

(Signature)
(Name)
(Designation)
(Code Number)
(Address)

NOTES:

(i) The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.

(ii) The address, telephone number and other details of the Head Office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing Branch.

SCHEDULE – H

(DELETED)

SCHEDULE – I

TERMS OF REFERENCE FOR RAILWAY ELECTRICAL ENGINEER

1 Scope

1.1 These Terms of Reference for the Railway Electrical Engineer (the "**TOR**") are being specified pursuant to the Power Purchase Agreement dated……. (the "**Agreement**"), which has been entered into between Railways and …….. (the "**SPD**") for the Project at *** on design, build, finance, operate and transfer (DBFOT) basis, and a copy of which is annexed hereto and marked as Annex-A to form part of this TOR.

2 Definitions and interpretation

2.1 The words and expressions beginning with or in capital letters used in this TOR and not defined herein but defined in the Agreement shall have, unless repugnant to the context, the meaning respectively assigned to them in the Agreement.

2.2 References to Articles, Clauses and Schedules in this TOR shall, except where the context otherwise requires, be deemed to be references to the Articles, Clauses and Schedules of the Agreement, and references to Paragraphs shall be deemed to be references to Paragraphs of this TOR.

2.3 The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Agreement shall apply, *mutatis mutandis*, to this TOR.

3 Role and functions of the Railway Electrical Engineer

3.1 The role and functions of the Railway Electrical Engineer shall include the following:

(i) review of the Drawings and Documents as set forth in Paragraph 4 and periodically submit list of those drawings which are deemed to be approved under the provision of clause 12.2

(ii) review, inspection and monitoring of Construction Works as set forth in Paragraph 5;

(iii) conducting periodic Tests and Tests on completion of construction and issuing Completion Certificate as set forth in Paragraph 5;

(iv) review, inspection and monitoring of O&M as set forth in Paragraph 6;

(v) conducting safety audit of the project during the Construction Period and the Operation Period;

(vi) review, inspection and monitoring of Divestment Requirements as set forth in Paragraph 7;

(vii) determining, as required under the Agreement, the costs of any works or services and/or their reasonableness;

(viii) computing and determining the Damages payable by the SPD under the Agreement;

(ix) determining, as required under the Agreement, the period or any extension thereof, for performing any duty or obligation;

(x) Undertaking safety Audit of the project as stipulated in Schedule E of this agreement.

(xi) assisting the Parties in resolution of disputes as set forth in Paragraph 9; and

(xii) undertaking all other duties and functions in accordance with the Agreement.

3.2 The Railway Electrical Engineer shall discharge its duties in a fair, impartial and efficient manner, consistent with the highest standards of professional integrity and Good Industry Practice.

4 Development Period

4.1 During the Development Period, the Railway Electrical Engineer shall undertake a detailed review of the Drawings to be furnished by the SPD along with supporting data. The Railway Electrical Engineer shall complete such review and send its comments/observations to Railways and the SPD within 15 (fifteen) days of receipt of such Drawings. In particular, such comments shall specify the conformity or otherwise of such Drawings with the Scope of the Project and Specifications and Standards.

4.2 The Railway Electrical Engineer shall review any modified Drawings or supporting Documents sent to it by the SPD and Railways and furnish its comments within 7 (seven) days of receiving such Drawings or Documents.

4.3 The Railway Electrical Engineer shall review the Drawings sent to it by the SPD in accordance with Schedule-E and furnish its comments thereon to Railways and the SPD within [7 (seven)] days of receiving such Drawings. The Railway Electrical Engineer shall also review the Safety Report and furnish its comments thereon to Railways within [15 (fifteen)] days of receiving such report.

4.4 The Railway Electrical Engineer shall review the detailed design, construction methodology, quality assurance procedures and the procurement, engineering and construction time schedule sent to it by the SPD and furnish its comments within 15 (fifteen) days of receipt thereof.

4.5 Upon reference by Railways, the Railway Electrical Engineer shall review and comment on the EPC Contract or any other contract for construction, operation and maintenance of the Project, and furnish its comments within 7 (seven) days from receipt of such reference from Railways.

5 Construction Period

5.1 In respect of the Drawings, Documents and Safety Report received by the Railway Electrical Engineer for its review and comments during the Construction Period, the provisions of Paragraph 4 shall apply, *mutatis mutandis*.

5.2 The Railway Electrical Engineer shall review the monthly progress report furnished by the SPD and send its comments thereon to Railways and the SPD within 7 (seven) days of receipt of such report.

5.3 The Railway Electrical Engineer shall inspect the Construction Works (if any) once every month, preferably after receipt of the monthly progress report from the SPD, but before the 20th (twentieth) day of each month in any case, and make out a report of such inspection (the "**Inspection Report**") setting forth an overview of the status, progress, quality and safety of construction, including the work methodology adopted, the materials used and their sources, and conformity of Construction Works with the Scope of the Project and the Specifications and Standards. In a separate section of the Inspection Report, the Railway Electrical Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in the construction of the project. The Inspection Report shall also contain a review of the maintenance of the existing roads in conformity with the provisions of the Agreement. The Railway Electrical Engineer shall send a copy of its Inspection Report to Railways and the SPD within 7 (seven) days of the inspection.

5.4 The Railway Electrical Engineer may inspect the project more than once in a month if any lapses, defects or deficiencies require such inspections.

5.5 For determining that the Construction Works conform to Specifications and Standards, the Railway Electrical Engineer shall require the SPD to carry out, or cause to be carried out, tests on a sample basis, to be specified by the Railway Electrical Engineer in accordance with Good Industry Practice for quality assurance. The Railway Electrical Engineer shall issue necessary directions to the SPD for ensuring that the tests are conducted in a fair and efficient manner, and shall monitor and review the results thereof.

5.6 The sample size of the tests, to be specified by the Railway Electrical Engineer under Paragraph 5.5, shall comprise 10% (ten per cent) of the quantity or number of tests prescribed for each category or type of tests provided that the Railway Electrical Engineer may, for reasons to be recorded in writing, increase the aforesaid sample size by up to 10% (ten per cent) for certain categories or types of tests.

5.7 The timing of tests referred to in Paragraph 5.5, and the criteria for acceptance/ rejection of their results shall be determined by the Railway Electrical Engineer. The tests shall be undertaken on a random sample basis and shall be in addition to, and independent of, the tests that may be carried out by the SPD for its own quality assurance in accordance with Good Industry Practice.

5.8 In the event that the SPD carries out any remedial works for removal or rectification of any defects or deficiencies, the Railway Electrical Engineer shall require the SPD to carry out, or cause to be carried out, tests to determine that such remedial works have brought the Construction Works into conformity with the Specifications and Standards, and the provisions of this Paragraph 5 shall apply to such tests.

In the event that the SPD fails to achieve any of the Project Milestones as per the detail Project Completion Schedule provided by SPD, the Railway Electrical Engineer shall undertake a review of the progress of construction and identify potential delays, if any. If the Railway Electrical Engineer shall determine that completion of the Project is not feasible within the time specified in the Agreement, it shall require the SPD to indicate within 15 (fifteen)days the steps proposed to be taken to expedite progress, and the period within which the Project Completion Date shall be achieved. Upon receipt of a report from the SPD, the Railway Electrical Engineer shall review the same and send its comments to Railways and the SPD forthwith.

5.10 If at any time during the Construction Period, the Railway Electrical Engineer determines that the SPD has not made adequate arrangements for the safety of workers in the zone of construction or that any work is being carried out in a manner that threatens the safety of the workers, it shall make a recommendation to Railways forthwith, identifying the whole or part of the Construction Works that should be suspended for ensuring safety in respect thereof.

5.11 In the event that the SPD carries out any remedial measures to secure the safety of suspended works, it may, by notice in writing, require the Railway Electrical Engineer to inspect such works, and within 3 (three) days of receiving such notice, the Railway Electrical Engineer shall inspect the suspended works and make a report to Railways forthwith, recommending whether or not such suspension may be revoked by Railways.

5.12 If suspension of Construction Works is for reasons not attributable to the SPD, the Railway Electrical Engineer shall determine the extension of dates set forth in the Project Completion Schedule, to which the SPD is reasonably entitled, and shall notify Railways and the SPD of the same.

5.13 The Railway Electrical Engineer shall carry out, or cause to be carried out, all the Tests and issue a Completion Certificate, as the case may be. For carrying out its functions under this Paragraph 5.13 and all matters incidental thereto, the Railway Electrical Engineer shall act under and in accordance with the provisions of Article 14.

5.14 Commissioning Tests: The Railway Electrical Engineer will work with the SPD to undertake the Commissioning Tests, in accordance with the Testing Procedures, once the SPD is ready to commission the whole or a part of the solar rooftop system. The Railway Electrical Engineer shall verify the results of the Commissioning Tests for each Unit. If the Unit has successfully passed the Commissioning Tests, the Railway Electrical Engineer shall issue a certificate to that effect and shall provide a copy of the same to the SPD and the Railways. In order to determine if Commercial Operation Date has been achieved, the Railway Electrical Engineer shall also certify whether 95% of the Installed Capacity has successfully passed the Commissioning Tests and shall provide a copy of the same to the SPD and the Railways. On successful completion of the commissioning test, the Railway Electrical Engineer will provide a commissioning certificate to the SPD and a copy of the same to the Railways that the commissioning tests have been successfully undertaken and that the system can be immediately commissioned. This commissioning test will be in addition to the certificate for interconnection to be obtained from the chief electrical inspector, Central Government (appointed for the Railways) before a Unit may be connected at the Delivery Point.

5.15 Testing Procedures: The Railway Electrical Engineer along with the SPD will develop suitable testing procedures three (3) months before the earlier of the Scheduled Commercial Operation Date or, where Phased Commissioning is to be undertaken by Solar Company, the date proposed by Solar Company for Commissioning of the first Unit. Such procedures shall take into consideration relevant standards. The procedures mutually agreed by the Railway Electrical Engineer and SPD in writing shall be deemed to be incorporated in this Agreement as Schedule 3 and shall form part of this Agreement. The Testing Procedures under this Agreement shall be consistent with the testing procedures under the Project Implementation Agreement.

5.16 The Railway Electrical Engineer shall aid and advise the SPD in preparing the Maintenance Manual.

6 Operation Period

6.1 In respect of the Drawings, Documents and Safety Report received by the Railway Electrical Engineer for its review and comments during the Operation Period, the provisions of Paragraph 4 shall apply, *mutatis mutandis*.

6.2 The Railway Electrical Engineer shall review the annual Maintenance Programme furnished by the SPD and send its comments thereon to Railways and the SPD within 15 (fifteen) days of receipt of the Maintenance Programme.

6.3 The Railway Electrical Engineer shall review the monthly status report furnished by the SPD and send its comments thereon to Railways and the SPD within 7 (seven) days of receipt of such report.

6.4 The Railway Electrical Engineer shall inspect the project, once every month, preferably after receipt of the monthly status report from the SPD. In a separate section of the O&M Inspection Report, the Independent

6.5 Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in O&M of the Project. The Railway Electrical Engineer shall send a copy of its O&M Inspection Report to Railways and the SPD within 7 (seven) days of the inspection.

6.6 The Railway Electrical Engineer may inspect the Project more than once in a month, if any lapses, defects or deficiencies require such inspections.

6.7 The Railway Electrical Engineer shall in its O&M Inspection Report specify the tests, if any, that the SPD shall carry out, or cause to be carried out, for the purpose of determining that the Rail System is in conformity with the Maintenance Requirements. It shall monitor and review the results of such tests and the remedial measures, if any, taken by the SPD in this behalf.

6.8 In respect of any defect or deficiency referred to in Clause 15.2, the Railway Electrical Engineer shall, in conformity with Good Industry Practice, specify the permissible limit of deviation or deterioration with reference to the Specifications and Standards and shall also specify the time limit for repair or rectification of any deviation or deterioration beyond the permissible limit.

6.9 The Railway Electrical Engineer shall determine if any delay has occurred in completion of repair or remedial works in accordance with the Agreement, and shall also determine the Damages, if any, payable by the SPD to Railways for such delay.

6.10 The Railway Electrical Engineer shall monitor and review the curing of defects and deficiencies by the SPD as set forth in Clause 19.4.

6.11 In the event that the SPD notifies the Railway Electrical Engineer of any modifications that it proposes to make to the Project, the Railway Electrical Engineer shall review the same and send its comments to Railways and the SPD within 15 (fifteen) days of receiving the proposal.

6.12 Deemed Generation: In case of delay in commissioning due to causes attributable to the Railways, the SPD will be eligible for Deemed Generation for the time period when the SPD is ready to commission till the time the SPD commissions the systems. The Railway Electrical Engineer will certify that the SPDs systems were ready for commissioning but could not be commissioned due to inability to off take by the Railways. Once the Railways is ready to off take the solar energy, the Railway Electrical Engineer will direct the SPD to undertake Commissioning Tests on Units that have been Deemed Commissioned within such time as is considered reasonable by the Railway Electrical

Engineer in accordance with Prudent Utility Practices, once the cause attributable to Railways that resulted in the relevant Unit being Deemed Commissioned has ceased.

7 Termination

7.1 At any time, not earlier than 90 (ninety) days prior to Termination but not later than 15 (fifteen) days prior to such Termination, the Railway Electrical Engineer shall, in the presence of a representative of the SPD, inspect the Project for determining compliance by the SPD with the Divestment Requirements set forth in Clause

35.1 and, if required, cause tests to be carried out at the SPD's cost for determining such compliance. If the Railway Electrical Engineer determines that the status of the Project is such that its repair and rectification would require a larger amount than the sum set forth in Clause 36.2, it shall recommend retention of the required amount in the Escrow Account and the period of retention thereof.

7.2 The Railway Electrical Engineer shall inspect the Rail System once in every 15(fifteen) days during a period of 90 (ninety) days after Termination for determining the liability of the SPD under Article 36, in respect of the defects or deficiencies specified therein. If any such defect or deficiency is found by the Railway Electrical Engineer, it shall make a report in reasonable detail and send it forthwith to Railways and the SPD.

8 Determination of costs and time

8.1 The Railway Electrical Engineer shall determine the costs, and/or their reasonableness, that are required to be determined by it under the Agreement.

8.2 The Railway Electrical Engineer shall determine the period, or any extension thereof, that is required to be determined by it under the Agreement.

9 Assistance in Dispute resolution

9.1 When called upon by either Party in the event of any Dispute, the Railway Electrical Engineer shall mediate and assist the Parties in arriving at an amicable settlement.

9.2 In the event of any disagreement between the Parties regarding the meaning, scope and nature of Good Industry Practice, as set forth in any provision of the Agreement, the Railway Electrical Engineer shall specify such meaning, scope and nature by issuing a reasoned written statement relying on good industry practice and authentic literature.

10 Other duties and functions

The Railway Electrical Engineer shall perform all other duties and functions specified in the Agreement.

11 Miscellaneous

11.1 The Railway Electrical Engineer shall notify its programme of inspection to Railways and to the SPD, who may, in their discretion, depute their respective representatives to be present during the inspection.

11.2 A copy of all communications, comments, instructions, Drawings or Documents sent by the Railway Electrical Engineer to the SPD pursuant to this TOR, and a copy of all the test results with comments of the Railway Electrical Engineer thereon shall be furnished by the Railway Electrical Engineer to Railways forthwith.

11.3 The Railway Electrical Engineer shall obtain, and the SPD shall furnish in two copies thereof, all communications and reports required to be submitted, under this Agreement, by the SPD to the Railway Electrical Engineer, whereupon the Railway Electrical Engineer shall send one of the copies to Railways along with its comments thereon.

11.4 The Independent Engineer shall retain at least one copy each of all Drawings and Documents received by it, including „as-built" Drawings, and keep them in its safe custody.

11.5 Upon completion of its assignment hereunder, the Railway Electrical Engineer shall duly classify and list all Drawings, Documents, results of tests and other relevant records, and hand them over to Railways or such other person as Railways may specify, and obtain written receipt thereof. Two copies of the said document shall also be furnished in micro film form or in such other medium as may be acceptable to Railways.

Schedule - J

Format for Invoice

On letter head

To

*****

Date of JMR-

Meter No.-

Date of Issue-

Meter Reading		Electricity (kWh)	Tariff (Rs/kWh)	Tax (Rs)	Total Amount Payable (Rs)
Start Date	End Date				

Payment shall be made before- Date

Sign

Company Seal

Schedule – K

ESCROW AGREEMENT

THIS ESCROW AGREEMENT is entered into on this the …….. day of …….. 20…..

AMONGST

1 …….. Limited, a company incorporated under the provisions of the Companies Act, 2013 and having its registered office at …… (hereinafter referred to as the "**SPD**" which expression shall, unless repugnant to the context or meaning thereof, include its successors, permitted assigns and substitutes);

2 …….… (name and particulars of Lenders" Representative) and having its registered office at …… acting for and on behalf of the Senior Lenders as their duly authorised agent with regard to matters arising out of or in relation to this Agreement (hereinafter referred to as the "**Lenders' Representative**" which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes);

3 …… (name and particulars of the Escrow Bank) and having its registered office at …… (hereinafter referred to as the "**EscrowBank**" which expression shall, unless repugnant to the context or meaning thereof,include its successors and substitutes); and

4 The President of India represented by [*** (*Designation of the Signatory*)], Ministry of Railways (Railway Board), Government of India and having its principal offices at ******] (hereinafter referred to as the "**Railways**" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns).

WHEREAS:

(A) Railways has entered into a Power Purchase Agreement dated …….. with the SPD (the "**Power Purchase Agreement**") for Solar Rooftop Power System of the ***** Section (km ** to **) of ***** on design, build, finance, operate and transfer basis ("**DBOT"**), and a copy of which is annexed hereto and marked as Annex-A to form part of this Agreement.

(B) Senior Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.

(C) The Power Purchase Agreement requires the SPD to establish an Escrow Account, *inter alia*, on the terms and conditions stated therein.

NOW, THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth in this Agreement, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

"**Agreement**" means this Escrow Agreement and any amendment thereto made in accordance with the provisions contained herein;

"**Power Purchase Agreement**" means the Power Purchase Agreement referred to in Recital (A) above shall include all of its Recitals and Schedules and any amendments made thereto in accordance with the provisions contained in this behalf therein;

"**Cure Period**" means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the SPD, and shall commence from the date on which a notice is delivered by Railways or the Lenders‟ Representative, as the case may be, to the SPD asking the latter to cure the breach or default specified in such notice;

"**Escrow Account**" means an escrow account established in terms of and under this Agreement, and shall include the Sub-Accounts;

"**Escrow Default**" shall have the meaning ascribed thereto in Clause 6.1 in the Escrow Agreement;

"**Lenders' Representative**" means the person referred to as the Lenders‘ Representative in the foregoing Recitals;

"**Parties**" means the parties to this Agreement collectively and "Party" shall mean any of the Parties to this Agreement individually;

"**Payment Date**" means, in relation to any payment specified in Clause 4.1 in the Escrow Agreement, the date(s) specified for such payment; and

"**Sub-Accounts**" means the respective Sub-Accounts of the Escrow Account, into which the monies specified in Clause 4.1 would be credited every month and paid out if due, and if not due in a month then appropriated proportionately in such month and retained in the respective Sub Accounts and paid out there from on the Payment Date(s).

1.2 Interpretation

1.2.1 References to Lenders‟ Representative shall, unless repugnant to the context or meaning thereof, mean references to the Lenders‟ Representative, acting for and on behalf of Senior Lenders.

1.2.2 The words and expressions beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the words and expressions used in this Agreement and not defined herein but defined in the Power Purchase Agreement shall, unless repugnant to the context, have the meaning ascribed thereto in the Power Purchase Agreement.

1.2.3 References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.

1.2.4 The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Power Purchase Agreement shall apply, *mutatis mutandis*, to this Agreement.

2 ESCROW ACCOUNT

2.1 Escrow Bank to act as trustee

2.1.1 The SPD hereby appoints the Escrow Bank to act as trustee for Railways, the Lenders‟ Representative and the SPD in connection herewith and authorises the Escrow Bank to exercise such rights, powers, authorities and discretion as are specifically delegated to the Escrow Bank by the terms hereof together with all such rights, powers, authorities and discretion as are reasonably incidental hereto, and the Escrow Bank accepts such appointment pursuant to the terms hereof.

2.1.2 The SPD hereby declares that all rights, title and interest in and to the Escrow Account shall be vested in the Escrow Bank and held in trust for Railways, the Lenders‟ Representative and the SPD, and applied in accordance with the terms of this Agreement. No person other than Railways, the Lenders‟ Representative and the SPD shall have any rights hereunder as the beneficiaries of, or as third party beneficiaries under this Agreement.

2.2 Acceptance of Escrow Bank

The Escrow Bank hereby agrees to act as such and to accept all payments and other amounts to be delivered to and held by the Escrow Bank pursuant to the provisions of this Agreement. The Escrow Bank shall hold and safeguard the Escrow Account during the term of this Agreement and shall treat the amount in the Escrow Account as monies deposited by the SPD, Senior Lenders or Railways with the Escrow Bank. In performing its functions and duties under this Agreement, the Escrow Bank shall act in trust for the benefit of, and as agent for, Railways, the Lenders‟ Representative and the SPD or their nominees, successors or assigns, in accordance with the provisions of this Agreement.

2.3 Establishment and operation of Escrow Account

2.3.1 Within 30 (thirty) days from the date of this Agreement, and in any case prior to the Appointed Date, the SPD shall open and establish the Escrow Account with the ……. (name of Branch) Branch of the Escrow Bank. The Escrow Account shall be denominated in Rupees.

2.3.2 The Escrow Bank shall maintain the Escrow Account in accordance with the terms of this Agreement and its usual practices and applicable regulations, and pay the maximum rate of interest payable to similar customers on the balance in the said account from time to time.

2.3.3 The Escrow Bank and the SPD shall, after consultation with the Lenders‘ Representative, agree on the detailed mandates, terms and conditions, and operating procedures for the Escrow Account, but in the event of any conflict or inconsistency between this Agreement and such mandates, terms and conditions, or procedures, this Agreement shall prevail.

2.4 Escrow Bank’s fee

The Escrow Bank shall be entitled to receive its fee and expenses in an amount, and at such times, as may be agreed between the Escrow Bank and the SPD. For the avoidance of doubt, such fee and expenses shall form part of the O&M Expenses and shall be

appropriated from the Escrow Account in accordance with Clause 4.1.

2.5 Rights of the parties

The rights of Railways, the Lenders‘ Representative and the SPD in the monies held in the Escrow Account are set forth in their entirety in this Agreement and Railways, the Lenders‟ Representative and the SPD shall have no other rights against or to the monies in the Escrow Account.

2.6 Substitution of the SPD

The Parties hereto acknowledge and agree that upon substitution of the SPD with the Nominated Company, pursuant to the Substitution Agreement, it shall be deemed for the purposes of this Agreement that the Nominated Company is a Party hereto and the Nominated Company shall accordingly be deemed to have succeeded to the rights and obligations of the SPD under this Agreement on and with effect from the date of substitution of the SPD with the Nominated Company.

3 DEPOSITS INTO ESCROW ACCOUNT

3.1 Deposits by the SPD

3.1.1 The SPD agrees and undertakes that it shall deposit into and/or credit the Escrow Account with:(a) all monies received in relation to the Project from any source, including the Senior Lenders, lenders of Subordinated Debt and Railways;

(a) all funds constituting the Financial Package;

(b) all revenues from or in respect of the Solar Rooftop Power System, including the proceeds of any rentals, deposits, capital receipts or insurance claims;

(c) all payments by Railways, after deduction of any outstanding Agreement Fee;

(d) all proceeds received pursuant to any insurance claims.

3.1.2 The SPD may at any time make deposits of its other funds into the Escrow Account, provided that the provisions of this Agreement shall apply to such deposits.

3.2 Deposits by Railways

Railways agrees and undertakes that, as and when due and payable, it shall deposit into and/or credit the Escrow Account with:

(a) Grant and any other monies disbursed by the Government to the SPD;
(b) all payments in respect of the Solar Rooftop Power System; and

(c) Termination Payments:

Provided that, notwithstanding the provisions of Clause 4.1.1, Railways shall be entitled to appropriate from the aforesaid amounts, any amount due and payable to it by the SPD and the balance remaining shall be deposited into the Escrow Account.

3.3 Deposits by Senior Lenders

The Lenders‟ Representative agrees, confirms and undertakes that the Senior Lenders shall deposit into and/or credit the Escrow Account with all disbursements made by them

in relation to or in respect of the Project; provided that notwithstanding anything to the contrary contained in this Agreement, the Senior Lenders shall be entitled to make direct payments to the EPC Contractor under and in accordance with the express provisions contained in this behalf in the Financing Agreements.

3.4 Interest on deposits

The Escrow Bank agrees and undertakes that all interest accruing on the balances of the Escrow Account shall be credited to the Escrow Account; provided that the Escrow Bank shall be entitled to appropriate there from the fee and expenses due to it from the SPD in relation to the Escrow Account and credit the balance remaining to the Escrow Account.

4 WITHDRAWALS FROM ESCROW ACCOUNT

4.1 Withdrawals during Agreement Period

4.1.1 At the beginning of every month, or at such shorter intervals as the Lenders' Representative and the SPD may by written instructions determine, the Escrow Bank shall withdraw amounts from the Escrow Account and appropriate them in the following order by depositing such amounts in the relevant Sub-Accounts for making due payments, and if such payments are not due in any month, then retain such monies in such Sub-Accounts and pay out there from on the Payment Date(s):

(a) all taxes due and payable by the SPD for and in respect of the Solar Rooftop Power System;

(b) all payments relating to construction of the Solar Rooftop Power System, subject to and in accordance with the conditions, if any, set forth in the Financing Agreements;

(c) O&M Expenses, subject to the ceiling, if any, set forth in the Financing Agreements;

(d) O&M Expenses incurred by Railways, provided it certifies to the Escrow Bank that it had incurred such expenses in accordance with the provisions of the Power Purchase Agreement and that the amounts claimed are due to it from the SPD;

(e) Payment due and payable to Railways;

(f) monthly proportionate provision of Debt Service due in an Accounting Year;

(g) all payments and Damages certified by Railways as due and payable to it by the SPD pursuant to the Power Purchase Agreement;

(h) monthly proportional provision of debt service payments due in an Accounting Year in respect of Subordinated Debt;

(i) any reserve requirements set forth in the Financing Agreements; and

(j) balance, if any, in accordance with the instructions of the SPD.

4.1.2 No later than 60 (sixty) days prior to the commencement of each Accounting Year, the SPD shall provide to the Escrow Bank, with prior written approval of the Lenders" Representative, details of the amounts likely to be required for each of the payment obligations set forth in this Clause 4.1; provided that such amounts may be subsequently modified, with prior written approval of the Lenders" Representative, if fresh information received during the course of the year makes such modification necessary.

4.2 Withdrawals upon Termination

Upon Termination of the Power Purchase Agreement, all amounts standing to the credit of the Escrow Account shall, notwithstanding anything in this Agreement, be appropriated and dealt with in the following order:

(a) all taxes due and payable by the SPD for and in respect of the Solar Rooftop Power System;

(b) 90% (ninety per cent) of Debt Due excluding Subordinated Debt;

(c) outstanding Agreement Fee;

(d) all payments and Damages certified by Railways as due and payable to it by the SPD pursuant to the Power Purchase Agreement and any claims in connection with or arising out of Termination;

(e) outstanding Debt Service including the balance of Debt Due;

(f) outstanding Subordinated Debt;

(g) incurred or accrued O&M Expenses;

(h) any other payments required to be made under the Power Purchase Agreement; and

(i) balance, if any, in accordance with the instructions of the SPD:

Provided that the disbursements specified in Sub-clause (j) of this Clause 4.2 shall be undertaken only after the Vesting Certificate has been issued by Railways.

4.3 Application of insufficient funds

Funds in the Escrow Account shall be applied in the serial order of priority set forth in Clauses 4.1 and 4.2, as the case may be. If the funds available are not sufficient to meet all the requirements, the Escrow Bank shall apply such funds in the serial order of priority until exhaustion thereof.

4.4 Application of insurance proceeds

Notwithstanding anything in this Agreement, the proceeds from all insurance claims, except life and injury, shall be deposited into and/or credited to the Escrow Account and utilised for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Solar Rooftop Power System, and the balance remaining, if any, shall be applied in accordance with the provisions contained in this behalf in the Financing Agreements.

4.5 Withdrawals during Suspension

Notwithstanding anything to the contrary contained in this Agreement, Railways may exercise all or any of the rights of the SPD during the period of Suspension under Article 27 of the Power Purchase Agreement. Any instructions given by Railways to the Escrow Bank during such period shall be complied with as if such instructions were given by the SPD under this Agreement and all actions of Railways hereunder shall be deemed to have been taken for and on behalf of the SPD.

5 OBLIGATIONS OF THE ESCROW BANK

5.1 Segregation of funds

Monies and other property received by the Escrow Bank under this Agreement shall, until used or applied in accordance with this Agreement, be held by the Escrow Bank in trust for the purposes for which they were received, and shall be segregated from other funds and property of the Escrow Bank.

5.2 Notification of balances

7 (seven) business days prior to each Payment Date (and for this purpose the Escrow Bank shall be entitled to rely on an affirmation by the SPD and/or the Lenders‟ Representative as to the relevant Payment Dates), the Escrow Bank shall notify the Lenders‟ Representative of the balances in the Escrow Account and Sub-Accounts as at the close of business on the immediately preceding business day.

5.3 Communications and notices

In discharge of its duties and obligations hereunder, the Escrow Bank:

(a) may, in the absence of bad faith or gross negligence on its part, rely as to any matters of fact which might reasonably be expected to be within the knowledge of the SPD upon a certificate signed by or on behalf of the SPD;

(b) may, in the absence of bad faith or gross negligence on its part, rely upon the authenticity of any communication or document believed by it to be authentic;

(c) shall, within 5 (five) business days after receipt, deliver a copy to the Lenders‟ Representative of any notice or document received by it in its capacity as the Escrow Bank from the SPD or any other person hereunder or in connection herewith; and

(d) shall, within 5 (five) business days after receipt, deliver a copy to the SPD of any notice or document received by it from the Lenders‟ Representative in connection herewith.

5.4 No set off

The Escrow Bank agrees not to claim or exercise any right of set off, banker‟s lien or other right or remedy with respect to amounts standing to the credit of the Escrow Account. For the avoidance of doubt, it is hereby acknowledged and agreed by the Escrow Bank that the monies and properties held by the Escrow Bank in the Escrow Account shall not be considered as part of the assets of the Escrow Bank and being trust property, shall in the case of bankruptcy or liquidation of the Escrow Bank, be wholly excluded from the assets of the Escrow Bank in such bankruptcy or liquidation.

5.5 Regulatory approvals

The Escrow Bank shall use its best efforts to procure, and thereafter maintain and comply with, all regulatory approvals required for it to establish and operate the Escrow Account. The Escrow Bank represents and warrants that it is not aware of any reason why such regulatory approvals will not ordinarily be granted to the Escrow Bank.

6 ESCROW DEFAULT

6.1 Escrow Default

6.1.1 Following events shall constitute an event of default by the SPD (an "Escrow Default") unless such event of default has occurred as a result of Force Majeure or any act or omission of Railways or the Lenders" Representative:

(a) the SPD commits breach of this Agreement by failing to deposit any receipts into the Escrow Account as provided herein and fails to cure such breach by depositing the same into the Escrow Account within a Cure Period of 5 (five) business days;

(b) the SPD causes the Escrow Bank to transfer funds to any account of the SPD in breach of the terms of this Agreement and fails to cure such breach by depositing the relevant funds into the Escrow Account or any Sub-Account in which such transfer should have been made, within a Cure Period of 5 (five) business days; or

(c) the SPD commits or causes any other breach of the provisions of this Agreement and fails to cure the same within a Cure Period of 5 (five) business days.

6.1.2 Upon occurrence of an Escrow Default, the consequences thereof shall be dealt with under and in accordance with the provisions of the Power Purchase Agreement.

7 TERMINATION OF ESCROW AGREEMENT

7.1 Duration of the Escrow Agreement

This Agreement shall remain in full force and effect so long as any sum remains to be advanced or is outstanding from the SPD in respect of the debt, guarantee or financial assistance received by it from the Senior Lenders, or any of its obligations to Railways remain to be discharged, unless terminated earlier by consent of all the Parties or otherwise in accordance with the provisions of this Agreement.

7.2 Substitution of Escrow Bank

The SPD may, by not less than 45 (forty five) days prior notice to the Escrow Bank, Railways and the Lenders" Representative, terminate this Agreement and appoint a new Escrow Bank, provided that the new Escrow Bank is acceptable to the Lenders" Representative and arrangements are made satisfactory to the Lenders" Representative for transfer of amounts deposited in the Escrow Account to a new Escrow Account established with the successor Escrow Bank.

The termination of this Agreement shall take effect only upon coming into force of an Escrow Agreement with the substitute Escrow Bank.

7.3 Closure of Escrow Account

The Escrow Bank shall, at the request of the SPD and the Lenders‟ Representative made on or after the payment by the SPD of all outstanding amounts under the Power Purchase Agreement and the Financing Agreements including the payments specified in Clause 4.2, and upon confirmation of receipt of such payments, close the Escrow Account and Sub-Accounts and pay any amount standing to the credit thereof to the SPD. Upon closure of the Escrow Account hereunder, the Escrow Agreement shall be deemed to be terminated.

8 SUPPLEMENTARY ESCROW AGREEMENT

8.1 Supplementary escrow agreement

The Lenders‟ Representative and the SPD shall be entitled to enter into a supplementary escrow agreement with the Escrow Bank providing, *inter alia*, for detailed procedures and documentation for withdrawals from Sub-Accounts pursuant to Clause 4.1.1 and for matters not covered under this Agreement such as the rights and obligations of Senior Lenders and lenders of Subordinated Debt, investment of surplus funds, restrictions on withdrawals by the SPD in the event of breach of this Agreement or upon occurrence of an Escrow Default, procedures relating to operation of the Escrow Account and withdrawal there from, reporting requirements and any matters incidental thereto; provided that such supplementary escrow agreement shall not contain any provision which is inconsistent with this Agreement and in the event of any conflict or inconsistency between provisions of this Agreement and such supplementary escrow agreement, the provisions of this Agreement shall prevail.

9 INDEMNITY

9.1 General indemnity

9.1.1 The SPD will indemnify, defend and hold Railways, Escrow Bank and the Senior Lenders, acting through the Lenders‟ Representative, harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of any breach by the SPD of any of its obligations under this Agreement or on account of failure of the SPD to comply with Applicable Laws and Applicable Permits.

9.1.2 Railways will indemnify, defend and hold the SPD harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of Railways to fulfil any of its obligations under this Agreement materially and adversely affecting the performance of the SPD‟s obligations under the Power Purchase Agreement or this Agreement other than any loss, damage, cost and expense arising out of acts done in discharge of their lawful functions by Railways, its officers, servants and agents.

9.1.3 The Escrow Bank will indemnify, defend and hold the SPD harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Escrow Bank to fulfil its obligations under this Agreement materially and adversely affecting the performance of the SPD‟s obligations under the Power Purchase Agreement other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Escrow Bank, its officers, servants and agents.

9.2 Notice and contest of claims

the event that any Party hereto receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under Clause 9.1 or in respect of which it is entitled to reimbursement (the "**Indemnified Party**"), it shall notify the other Party responsible for indemnifying such claim hereunder (the "**Indemnifying Party**") within

[15 (fifteen)] days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same. The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.

10 DISPUTE RESOLUTION

10.1 Dispute resolution

10.1.1 Any dispute, difference or claim arising out of or in connection with this Agreement, which is not resolved amicably, shall be decided finally by reference to arbitration to a Board of Arbitrators comprising one nominee of each Party to the dispute, and where the number of such nominees is an even number, the nominees shall elect another person to such Board. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the "**Rules**") or such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996.

10.1.2 The Arbitrators shall issue a reasoned award and such award shall be final and binding on the Parties. The venue of arbitration shall be ***and the language of arbitration shall be English.

11 MISCELLANEOUS PROVISIONS

11.1 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the Courts at *** shall have jurisdiction over all matters arising out of or relating to this Agreement.

11.2 Waiver of sovereign immunity

Railways unconditionally and irrevocably:

(a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;

(b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of Railways with respect to its assets;

(c) waives any right of immunity which it or its assets, property or revenue snow has, may acquire in the future or which may be attributed to it in any jurisdiction; and

(d) consents generally in respect of the enforcement of any judgement or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement that may be made or given in connection therewith).

11.3 Priority of agreements

In the event of any conflict between the Power Purchase Agreement and this Agreement, the provisions contained in the Power Purchase Agreement shall prevail over this Agreement.

11.4 Alteration of terms

All additions, amendments, modifications and variations to this Agreement shall be effectual and binding only if in writing and signed by the duly authorised representatives of the Parties.

11.5 Waiver

11.5.1 Waiver by any Party of a default by another Party in the observance and performance of any provision of or obligations under this Agreement:

(a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;

(b) shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and

(c) shall not affect the validity or enforceability of this Agreement in any manner.

11.5.2 Neither the failure by any Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation there under nor time or other indulgence granted by any Party to another Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

11.6 No third party beneficiaries

This Agreement is solely for the benefit of the Parties and no other person or entity shall have any rights hereunder.

11.7 Survival

11.7.1 Termination of this Agreement:

(a) shall not relieve the Parties of any obligations hereunder which expressly or by implication survive termination hereof; and

(b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such termination or arising out of such termination.

11.7.2 All obligations surviving the cancellation, expiration or termination of this Agreement shall only survive for a period of 3 (three) years following the date of such termination or expiry of this Agreement.

11.8 Severability

If for any reason whatever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to dispute resolution under Clause 10.1 of this Agreement or otherwise.

11.9 Successors and assigns

This Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

11.10 Notices

All notices or other communications to be given or made under this Agreement shall be in writing and shall either be delivered personally or sent by courier or registered post with an additional copy to be sent by facsimile ore-mail. The address for service of each Party, its facsimile number and e-mail address are set out under its name on the signing pages hereto. A notice shall be effective upon actual receipt thereof, save that where it is received after 5.30 (five thirty) p.m. on a business day, or on a day that is not a business day, the notice shall be deemed to be received on the first business day following the date of actual receipt. Without prejudice to the foregoing, a Party giving or making a notice or communication by facsimile ore-mail shall promptly deliver a copy thereof personally, or send it by courier or registered post to the addressee of such notice or communication. It is hereby agreed and acknowledged that any Party may by notice change the address to which such notices and communications to it are to be delivered or mailed. Such change shall be effective when all the Parties have notice of it.

11.11 Language

All notices, certificates, correspondence and proceedings under or in connection with this Agreement shall be in English.

11.12 Authorised representatives

Each of the Parties shall, by notice in writing, designate their respective authorised representatives through whom only all communications shall be made. A Party hereto shall be entitled to remove and/or substitute or make fresh appointment of such authorised representative by similar notice.

11.13 Original Document

This Agreement may be executed in four counterparts, each of which when executed and delivered shall constitute an original of this Agreement.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS

AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

THECOMMON SEAL OF SPD has been affixed pursuant to the resolution passed by the Board of Directors of the SPD at its meeting held on the …… day of 20…… hereunto affixed in the presence of ……,

Director, who has signed these presents in token thereof and ……, Company Secretary / Authorised Officer who has countersigned the same in token thereof [$]:

SIGNED, SEALED AND DELIVERED For and on behalf of SENIOR LENDERS by the Lenders‟ Representative:

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(e-mail address)

SIGNED, SEALED AND DELIVERED
For and on behalf of
ESCROW BANK by:

(Signature)
(Name)
(Designation
(Address)
(Fax No.)
(e-mail address)

SIGNED, SEALED AND DELIVERED
For and on behalf of
The President of India *** by:

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(e-mail address)

In the presence of:

1. .

[$] To be affixed in accordance with the articles of association of the SPD.

Schedule L

SUBSTITUTION AGREEMENT

THIS SUBSTITUTION AGREEMENT is entered into on this the ……. day of …… 20….

AMONGST

1 The President of India represented by [*** (*Designation of the Signatory*)], Ministry of Railways (Railway Board), Government of India ("**Railways**") which expression shall unless repugnant to the context or meaning thereof include its administrators, successors and assigns);

2 [……. Limited], a company incorporated under the provisions of the Companies Act, 2013 and having its registered office at ……, (hereinafter referred to as the "**SPD**" which expression shall unless repugnant to the context or meaning thereof include its successors and permitted assigns and substitutes);

3 (name and particulars of Lenders" Representative) and having its registered office at ……., acting for and on behalf of the Senior Lenders as their duly authorised agent with regard to matters arising out of or in relation to this Agreement (hereinafter referred to as the "**Lenders' Representative**", which expression shall unless repugnant to the context or meaning thereof include its successors and substitutes);

WHEREAS:

(A) Railways has entered into a Power Purchase Agreement dated ……. with the SPD (the "**Power Purchase Agreement**") for Project on the **** Section (km ** to **) on design, build, finance, operate and transfer basis ("**DBFOT**"), and a copy of which is annexed hereto and marked as Annex-A to form part of this Agreement.

(B) Senior Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.

(C) Senior Lenders have requested Railways to enter into this SubstitutionAgreement for securing their interests through assignment, transfer and substitution of the Agreement to a Nominated Company in accordance with the provisions of this Agreement and the Power Purchase Agreement.

(D) In order to enable implementation of the Project including its financing, construction, operation and maintenance, Railways has agreed and undertaken to transfer and assign the Project to a Nominated Company in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the respective covenants andagreements set forth in this Agreement, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Substitution Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

"**Agreement**" means this Substitution Agreement and any amendment thereto made in accordance with the provisions contained in this Agreement;

"**Financial Default**" means occurrence of a material breach of the terms and conditions of the Financing Agreements or a continuous default in Debt Service by the SPD for a minimum period of 3 (three) months;

"**Lenders' Representative**" means the person referred to as the Lenders‟ Representative in the foregoing Recitals;

"**Nominated Company**" means a company, incorporated under the provisions of the Companies Act, 2013, selected by the Lenders‟ Representative, on behalf of Senior Lenders, and proposed to Railways for assignment/transfer of the Agreement as provided in this Agreement;

"**Notice of Financial Default**" shall have the meaning ascribed thereto in Clause 3.2.1; and

"**Parties**" means the parties to this Agreement collectively and "**Party**" shall mean any of the Parties to this Agreement individually.

1.2 Interpretation

1.2.1 References to Lenders‟ Representative shall, unless repugnant to the context or meaning thereof, mean references to the Lenders‟ Representative, acting for and on behalf of Senior Lenders.

1.2.2 References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.

1.2.3 The words and expressions beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the words and expressions used in this Agreement and not defined herein but defined in the Power Purchase Agreement shall, unless repugnant to the context, have the meaning ascribed thereto in the Power Purchase Agreement.

1.2.4 The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Power Purchase Agreement shall apply, *mutatis mutandis*, to this Agreement.

2 ASSIGNMENT

2.1 Assignment of rights and title

The SPD hereby agrees to assign the rights, title and interest in the Agreement to, and in favour of, the Lenders‟ Representative pursuant to and in accordance with the provisions of this Agreement and the Power Purchase Agreement by way of security in respect of financing by the

Senior Lenders under the Financing Agreements.

3 SUBSTITUTION OF THE SPD

3.1 Rights of substitution

3.1.1 Pursuant to the rights, title and interest assigned under Clause 2.1, the Lenders‟ Representative shall be entitled to substitute the SPD by a Nominated Company under and in accordance with the provisions of this Agreement and the Power Purchase Agreement.

3.1.2 Railways hereby agrees to substitute the SPD by endorsement on the Agreement in favour of the Nominated Company selected by the Lenders‟ Representative in accordance with this Agreement. (For the avoidance of doubt, the Senior Lenders or the Lenders‟ Representative shall not be entitled to operate and maintain the Project as SPD either individually or collectively).

3.2 Substitution upon occurrence of Financial Default

3.2.1 Upon occurrence of a Financial Default, the Lenders‟ Representative may issue a notice to the SPD (the "Notice of Financial Default") along with particulars thereof, and send a copy to Railways for its information and record. A Notice of Financial Default under this Clause 3 shall be conclusive evidence of such Financial Default and it shall be final and binding upon the SPD for the purposes of this Agreement.

3.2.2 Upon issue of a Notice of Financial Default hereunder, the Lenders‟ Representative may, without prejudice to any of its rights or remedies under this Agreement or the Financing Agreements, substitute the SPD by a Nominated Company in accordance with the provisions of this Agreement.

3.2.3 At any time after the Lenders‟ Representative has issued a Notice of Financial Default, it may by notice require Railways to suspend all the rights of the SPD and undertake the operation and maintenance of the Project in accordance with the provisions of Article 36 of the Power Purchase Agreement, and upon receipt of such notice, Railways shall undertake Suspension under and in accordance with the provisions of the Power Purchase Agreement. The aforesaid Suspension shall be revoked upon substitution of the SPD by a Nominated Company, and in the event such substitution is not completed within 180 (one hundred and eighty) days from the date of such Suspension, Railways may terminate the Power Purchase Agreement forthwith by issuing a Termination Notice in accordance with the provisions of the Power Purchase Agreement; provided that upon written request from the Lenders‟ Representative and the SPD, Railways may extend the aforesaid period of 180 (one hundred and eighty) days by a period not exceeding 90 (ninety) days. For the avoidance of doubt, Railways expressly agrees and undertakes to terminate the Power Purchase Agreement forthwith, upon receipt of a written request from the Lenders‟ Representative at any time after 240 (two hundred and forty) days from the date of Suspension hereunder.

3.3 Substitution upon occurrence of SPD Default

3.3.1 Upon occurrence of a SPD Default, Railways shall by a notice inform the Lenders‟ Representative of its intention to issue a Termination Notice and grant 15 (fifteen) days-time to the Lenders‟ Representative to make a representation, stating the intention to substitute the SPD by a Nominated Company.

3.3.2 In the event that the Lenders‟ Representative makes a representation to Railways within the period of 15 (fifteen) days specified in Clause 3.3.1, stating that it intends to substitute the SPD by a Nominated Company, the Lenders‟ Representative shall be entitled to undertake and complete the substitution of the SPD by a Nominated Company in accordance with the provisions of this Agreement within a period of 180 (one hundred and eighty) days from the date of such representation, and Railways shall either withhold Termination or undertake Suspension for the aforesaid period of 180 (one hundred and eighty) days; provided that upon written request from the Lenders‟ Representative and the SPD, Railways shall extend the aforesaid period of 180 (one hundred and eighty) days by a period not exceeding 90 (ninety) days.

3.4 Procedure for substitution

3.4.1 Railways and the SPD hereby agree that on or after the date of Notice of Financial Default or the date of representation to Railways under Clause 3.3.2, as the case may be, the Lenders‟ Representative may, without prejudice to any of the other rights or remedies of the Senior Lenders, invite, negotiate and procure offers, either by private negotiations or public auction or tenders for the take over and transfer of the Project including the Agreement to the Nominated Company upon such Nominated Company‟s assumption of the liabilities and obligations of the SPD towards Railways under the Power Purchase Agreement and towards the Senior Lenders under the Financing Agreements.

3.4.2 To be eligible for substitution in place of the SPD, the Nominated Company shall be required to fulfil the eligibility criteria that were laid down by Railways for shortlisting the bidders for award of the Agreement; provided that the Lenders‟ Representative may represent to Railways that all or any of such criteria may be waived in the interest of the Project, and if Railways determines that such waiver shall not have any material adverse effect on the Project, it may waive all or any of such eligibility criteria.

3.4.3 Upon selection of a Nominated Company, the Lenders‟ Representative shall request Railways to:

(a) accede to transfer to the Nominated Company the right to construct, operate and maintain the Project in accordance with the provisions of the Power Purchase Agreement;

(b) endorse and transfer the Agreement to the Nominated Company, on the same terms and conditions, for the residual Agreement Period; and

(c) enter into a Substitution Agreement with the Lenders‟ Representative and the Nominated Company on the same terms as are contained in this Agreement.

3.4.4 If Railways has any objection to the transfer of Agreement in favour of the Nominated Company in accordance with this Agreement, it shall within 15 (fifteen) days from the date of proposal made by the Lenders‟ Representative, give a reasoned order after hearing the Lenders‟ Representative. If no such objection is raised by Railways, the Nominated Company shall be deemed to have been accepted. Railways thereupon shall transfer and endorse the Agreement within 15 (fifteen) days of its acceptance/deemed acceptance of the Nominated Company; provided that in the event of such objection by Railways, the Lenders‟ Representative may propose another Nominated Company whereupon the procedure set forth in this Clause 3.4 shall be followed for substitution of such Nominated Company in place of the SPD.

3.5 Selection to be binding

The decision of the Lenders‟ Representative and Railways in selection of the Nominated Company shall be final and binding on the SPD. The SPD irrevocably agrees and waives any right to challenge the actions of the Lenders‟ Representative or the Senior Lenders or Railways taken pursuant to this Agreement including the transfer/assignment of the Agreement in favour of the Nominated Company. The SPD agrees and confirms that it shall not have any right to seek revaluation of assets of the Project or the SPD‟s shares. It is hereby acknowledged by the

Parties that the rights of the Lenders‟ Representative are irrevocable and shall not be contested in any proceedings before any court or Government and the SPD shall have no right or remedy to prevent, obstruct or restrain Railways or the Lenders‟ Representative from effecting or causing the transfer by substitution and endorsement of the Agreements requested by the Lenders‟ Representative.

4 PROJECT AGREEMENTS

4.1 Substitution of Nominated Company in Project Agreements

The SPD shall ensure and procure that each Project Agreement contains provisions that entitle the Nominated Company to step into such Project Agreement, in its discretion, in place and substitution of the SPD in the event of such Nominated Company's assumption of the liabilities and obligations of the SPD under the
Power Purchase Agreement.

5 TERMINATION OF POWER PURCAHSE AGREEMENT

5.1 Termination upon occurrence of Financial Default

At any time after issue of a Notice of Financial Default, the Lenders‟ Representative may by a notice in writing require Railways to terminate the Power Purchase Agreement forthwith, and upon receipt of such notice, Railways shall undertake Termination under and in accordance with the provisions of Article 34 of the Power Purchase Agreement.

5.2 Termination when no Nominated Company is selected

In the event that no Nominated Company acceptable to Railways is selected and recommended by the Lenders' Representative within the period of [180 (one hundred and eighty)] days or any extension thereof as set forth in Clause 3.3.2, Railways may terminate the Power Purchase Agreement forthwith in accordance with the provisions thereof.

5.3 Realisation of Debt Due

Railways and the SPD hereby acknowledge and agree that, without prejudice to their any other right or remedy, the Lenders‟ Representative is entitled to receive from the SPD, without any further reference to or consent of the SPD, the Debt Due upon Termination of the Power Purchase Agreement. For realisation of the Debt Due, the Lenders‟ Representative shall be entitled to make its claim from the Escrow Account in accordance with the provisions of the Power Purchase Agreement and the Escrow Agreement.

6 DURATION OF THE AGREEMENT

6.1 Duration of the Agreement

This Agreement shall come into force from the date hereof and shall expire at the earliest to occur of the following events:

(a) Termination of the Agreement; or

(b) no sum remains to be advanced and no sum is outstanding to the Senior Lenders, under the Financing Agreements.

7 INDEMNITY

7.1 General indemnity

7.1.1 The SPD will indemnify, defend and hold Railways and the Lenders‟ Representative harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of any breach by the SPD of any of its obligations under this Agreement or on account of failure of the SPD to comply with Applicable Laws and Applicable Permits.

7.1.2 Railways will indemnify, defend and hold the SPD harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of Railways to fulfil any of its obligations under this Agreement, materially and adversely affecting the performance of the SPD‟s obligations under the Power Purchase Agreement or this Agreement, other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by Railways, its officers, servants and agents.

7.1.3 The Lenders‟ Representative will indemnify, defend and hold the SPD harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Lenders‟ Representative to fulfil its obligations under this Agreement, materially and adversely affecting the performance of the SPD‟s obligations under the Power Purchase Agreement, other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Lenders‟ Representative, its officers, servants and agents.

7.2 Notice and contest of claims

In the event that any Party hereto receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under Clause 7.1 or in respect of which it is entitled to reimbursement (the "**Indemnified Party**"), it shall notify the other Party responsible for indemnifying such claim hereunder (the "**Indemnifying Party**") within 15 (fifteen) days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, such approval not to be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same. The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.

8 DISPUTE RESOLUTION

8.1 Dispute resolution

8.1.1 Any dispute, difference or claim arising out of or in connection with this Agreement which is not resolved amicably shall be decided by reference to arbitration to a Board of Arbitrators comprising one nominee each of Railways, SPD and the Lenders‟ Representative. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the "**Rules**") or such other rules as may be mutually agreed by the Parties, and shall be subject to provisions of the Arbitration and Conciliation Act, 1996.

8.1.2 The Arbitrators shall issue a reasoned award and such award shall be final and binding on the Parties. The venue of arbitration shall be *** and the language of arbitration shall be English.

9 MISCELLANEOUS PROVISIONS

9.1 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the Courts at *** shall have jurisdiction over all matters arising out of or relating to this Agreement.

9.2 Waiver of sovereign immunity

Railways unconditionally and irrevocably:

(a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;

(b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of Railways with respect to its assets;

(c) waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and

(d) consents generally in respect of the enforcement of any judgement or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement that may be made or given in connection therewith).

9.3 Priority of agreements

In the event of any conflict between the Power Purchase Agreement and this Agreement, the provisions contained in the Power Purchase Agreement shall prevail over this Agreement.

9.4 Alteration of terms

All additions, amendments, modifications and variations to this Agreement shall be effectual and binding only if in writing and signed by the duly authorised representatives of the Parties.

9.5 Waiver

9.5.1 Waiver by any Party of a default by another Party in the observance and performance of any provision of or obligations under this Agreement:

(a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;

(b) shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and

(c) shall not affect the validity or enforceability of this Agreement in any manner.

9.5.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation thereunder nor time or other indulgence granted by a Party to another Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

9.6 No third party beneficiaries

This Agreement is solely for the benefit of the Parties and no other person or entity shall have any rights hereunder.

9.7 Survival

9.7.1 Termination of this Agreement:

(a) shall not relieve the Parties of any obligations hereunder which expressly or by implication survive termination hereof; and

(b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such termination or arising out of such termination.

9.7.2 All obligations surviving the cancellation, expiration or termination of this Agreement shall only survive for a period of 3 (three) years following the date of such termination or expiry of this Agreement.

9.8 Severability

If for any reason whatever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or anyother instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to dispute resolution under Clause 8 of this Agreement or otherwise.

9.9 Successors and assigns

This Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

9.10 Notices

All notices or other communications to be given or made under this Agreement shall be in writing, shall either be delivered personally or sent by courier or registered post with an additional copy to be sent by facsimile or e-mail. The address for service of each Party, its facsimile number and e-mail address are set out under its name on the signing pages hereto. A notice shall be effective upon actual receipt thereof, save that where it is received after 5.30 (five thirty) p.m. on any day, or on a day that is a public holiday, the notice shall be deemed to be received on the first working day following the date of actual receipt. Without prejudice to the foregoing, a Party giving or making a notice or communication by facsimile ore-mail shall promptly deliver a copy thereof personally, or send it by courier or registered post to the addressee of such notice or communication. It is hereby agreed and acknowledged that any Party may by notice change the address to which such notices and communications to it are to be delivered or mailed. Such change shall be effective when all the Parties have notice of it.

9.11 Language

All notices, certificates, correspondence and proceedings under or in connection with this Agreement shall be in English.

9.12 Authorised representatives

Each of the Parties shall by notice in writing designate their respective authorised representatives through whom only all communications shall be made. A Party hereto shall be entitled to remove and/or substitute or make fresh appointment of such authorised representative by similar notice.

9.13 Original Document

This Agreement may be executed in three counterparts, each of which when executed and delivered shall constitute an original of this Agreement.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

THE COMMON SEAL OF CONCESSIONAIRE has been affixed pursuant to the resolution passed by the Board of Directors of the SPD at its meeting held on the …… day of 20…… hereunto affixed in the presence of ……, Director, who has signed these presents in token thereof and ……, Company Secretary / Authorised Officer who has countersigned the same in token thereof [$]:

SIGNED, SEALED AND DELIVERED
For and on behalf of
President of India by:

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(e-mail address)

SIGNED, SEALED AND DELIVERED

For and on behalf of

SENIOR LENDERS by the Lenders‟ Representative:

(Signature)
(Name)
(Designation)
(Address)
(Fax)
(e-mail address)

In the presence of:

1. 2.

Schedule M

Buy back Price

(*Refer clause 28.8 for Buy back option*)

The Buyback Price with respect to the System under the Agreement shall be calculated on pro-rate basis as follows:

InitialCost:-CostquotedbythebiddersortotalcostcalculatedasperRs____per MWp whichever is lower. The Depreciation rate is taken as **5.83%Per Year for first 12 years and 1.54% per year for remaining 13 years.**

Year of Term (End of Year)	**% of Initial cost***	**Buyback Price (in Rs Crores)**
1	94.17%	
2	88.34%	
3	82.51%	
4	76.68%	
5	70.85%	
6	65.02%	
7	59.19%	
8	53.36%	
9	47.53%	
10	41.70%	
11	35.87%	
12	30.04%	
13	28.50%	
14	26.96%	
15	25.42%	
16	23.88%	
17	22.34%	
18	20.80%	
19	19.26%	
20	17.72%	
21	16.18%	
22	14.64%	
23	13.10%	
24	11.56%	
25	10.02%	

* The Buyback Prices hall be reduced by the amount of CF A paid to the Power Producer.