REQUEST FOR SELECTION DOCUMENT

FOR SETTING UP OF

6.0 MW GRID CONNECTED SOLAR PV POWER PROJECT AT
HAL, KORAPUT DIVISION, SUNABEDA UNDER DEVELOPER MODEL

ISSUED BY
ODISHA RENEWABLE ENERGY DEVELOPMENT AGENCY
S-59, MIE, BHUBANESWAR-751010

Tel No. 0674-2580554, Fax- 0674-2586368

Email- ceoreda@OREDARISHA.COM
Website: www.OREDARISHA.COM

7th June 2018
Disclaimer

1. Though adequate care has been taken for preparation of this document, the bidder shall satisfy himself that the document is complete in all respects. Intimation of any discrepancy shall be given to this office immediately. If no intimation is received from any bidder within ten days from the date of issue of the RfS document, it shall be considered that RfS document is complete in all respects and has been accepted by the bidder.

2. While the RfS has been prepared in good faith, neither OREDA nor their employees or advisors make any representation, warranty, express or implied or accept any responsibility or liability, whatsoever, in respect of any statement or omission 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 and completeness of this RfS, even if any loss or damage is caused by any act or omission on their part.

3. The Odisha Renewable Energy Development Agency (OREDA) reserves the right to modify, amend or supplement this RfS document including the Power Purchase Agreement.

4. OREDA also reserves the right to cancel the RfS without assigning any reason thereof in order to get the most competitive tariff.

5. In case the total number of participating bidders is found to be less than three OREDA further reserves the right either to extend the last date of submission of the bids by such time as it may deem to be proper or go for fresh RfS.

OREDA

Telefax: (0674) 2580554, 2586368

Email: ceoreda@oredaorissa.com

Place: Bhubaneswar
### Bid Information sheet

<table>
<thead>
<tr>
<th>Document Description</th>
<th>REQUEST FOR SELECTION (RfS) DOCUMENT FOR SETTING UP OF 6.0 MW SOLAR PV PROJECT SUNABEDA AT HAL KORAPUT DIVISION UNDER DEVELOPER MODEL.</th>
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<tbody>
<tr>
<td><strong>NIT No.</strong></td>
<td>2332/OREDA, Dated: 07.06.2018</td>
</tr>
<tr>
<td><strong>Broad Scope</strong></td>
<td>Setting up of Solar PV Power Project including Power evacuation network up to the designated point in HAL and sell the Solar Power to HAL.</td>
</tr>
<tr>
<td><strong>Pre-bid Conference</strong></td>
<td>Dated. 18.06.2018 at 11:30 AM in OREDA Conference hall</td>
</tr>
<tr>
<td><strong>Last Date and time of submission of online bids</strong></td>
<td>Dated. 30.06.2018 up to 1:00 PM</td>
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<tr>
<td><strong>Last Date and time of submission of hard copy of bids</strong></td>
<td>Dated. 02.07.2018 up to 1:00 PM</td>
</tr>
<tr>
<td><strong>Date of Techno-Commercial bid opening</strong></td>
<td>Dated. 02.07.2018 at 3:00 PM</td>
</tr>
<tr>
<td><strong>Opening of the price bid &amp; Electronic Reverse Auction</strong></td>
<td>To be intimated only to the techno commercially successful bidder</td>
</tr>
<tr>
<td><strong>RfS Processing fee</strong></td>
<td>Rs. 5,900/- (All bidders are required to pay the tender processing charge to M/s KSEDCL, Bangalore in tender wizard portal in e-payment mode only.</td>
</tr>
<tr>
<td><strong>Cost of RfS Document (Non-refundable)</strong></td>
<td>Rs. 11,200/- (including GST) to be submitted in the form of DD, along with the response to RfS in favour Chief Executive, OREDA payable at Bhubaneswar</td>
</tr>
<tr>
<td><strong>EMD</strong></td>
<td>Rs. 50,00,000/- to be submitted in the form of DD along with the response to RfS or in the form of Bank guarantee (BG) from any scheduled bank valid for a period of 90 days</td>
</tr>
<tr>
<td><strong>Address and other details for further communication</strong></td>
<td>DEPUTY DIRECTOR (TECHNICAL DIVISION-II) ODISHA RENEWABLE ENERGY DEVELOPMENT AGENCY, S-59, MIE, BHUBANESWAR-751010 Email: <a href="mailto:ceoreda@oredaorissa.com">ceoreda@oredaorissa.com</a> Tel No. 0674-2580554, Fax- 0674 -2586368</td>
</tr>
</tbody>
</table>

**Important Note:**
Prospective Project Developers are requested to remain updated for any notices/amendments/clarifications etc. to the RfS document through the e-procurement website [www.tenderwizard.com](http://www.tenderwizard.com) or [www.oredaodisha.com](http://www.oredaodisha.com).
No separate notifications will be issued for such notices/amendments/clarifications etc. in the print media or individually. Intimation regarding notification on the above shall be updated on [www.oredaodisha.com](http://www.oredaodisha.com) and the details only will be available from [www.tenderwizard.com](http://www.tenderwizard.com).

-Sd-
Chief Executive
### List of Abbreviations

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<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>BG</td>
<td>Bank Guarantee</td>
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<tr>
<td>BIS</td>
<td>Bureau of Indian Standards</td>
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<tr>
<td>CDM</td>
<td>Clean Development Mechanism</td>
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<tr>
<td>CEA</td>
<td>Central Electricity Authority</td>
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<tr>
<td>CERC</td>
<td>Central Electricity Regulatory Commission</td>
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<tr>
<td>DD</td>
<td>Demand Draft</td>
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<tr>
<td>DISCOM</td>
<td>Distribution Company</td>
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<tr>
<td>EMD</td>
<td>Earnest Money Deposit</td>
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<tr>
<td>FF</td>
<td>Fill Factor</td>
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<tr>
<td>GOI</td>
<td>Government of India</td>
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<tr>
<td>GOO</td>
<td>Government of Odisha</td>
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<tr>
<td>GP</td>
<td>Gram Panchayat</td>
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<tr>
<td>GRIDCO</td>
<td>Grid Corporation of Odisha</td>
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<tr>
<td>HV</td>
<td>High Voltage</td>
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<tr>
<td>IDCO</td>
<td>Industrial Development Corporation of Odisha</td>
</tr>
<tr>
<td>IEC</td>
<td>International Electro-technical Commission</td>
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<tr>
<td>INR</td>
<td>Indian Rupees</td>
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<tr>
<td>KV</td>
<td>Kilo Volt</td>
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<tr>
<td>L.C.</td>
<td>Letter of Credit</td>
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<tr>
<td>LLC</td>
<td>Limited Liability Company</td>
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<td>LLP</td>
<td>Limited Liability Partnership</td>
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<tr>
<td>LoI</td>
<td>Letter of Intent</td>
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<tr>
<td>MNRE</td>
<td>Ministry of New and Renewable Energy</td>
</tr>
<tr>
<td>MU</td>
<td>Million units</td>
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<tr>
<td>MVAR</td>
<td>Mega Volt-Ampere Reactive</td>
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<tr>
<td>MW</td>
<td>Mega Watt</td>
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<tr>
<td>OERC</td>
<td>Odisha Electricity Regulatory Commission</td>
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<tr>
<td>OPTCL</td>
<td>Odisha Power Transmission Corporation</td>
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<tr>
<td>OREDA</td>
<td>Odisha Renewable Energy Development Agency</td>
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<tr>
<td>PBG</td>
<td>Performance Bank Guarantee</td>
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<tr>
<td>PPA</td>
<td>Power Purchase Agreement</td>
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<tr>
<td>PV</td>
<td>Photo Voltaic</td>
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<tr>
<td>REC</td>
<td>Renewable Energy Certificate</td>
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<tr>
<td>RFID</td>
<td>Radio Frequency Identification</td>
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<tr>
<td>RfS</td>
<td>Request for Selection</td>
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<tr>
<td>ROC</td>
<td>Registrar of Companies</td>
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<tr>
<td>RPO</td>
<td>Renewable Purchase Obligation</td>
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<tr>
<td>SBI</td>
<td>State Bank of India</td>
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<tr>
<td>SCADA</td>
<td>Supervisory Control And Data Acquisition</td>
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<tr>
<td>SGC</td>
<td>State Grid Code</td>
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<tr>
<td>SLDC</td>
<td>State Load Dispatch Centre</td>
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<tr>
<td>SPD</td>
<td>Selected Solar Power Developer</td>
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<tr>
<td>SPV</td>
<td>Special Purpose Vehicle</td>
</tr>
<tr>
<td>STU</td>
<td>State Transmission Utility</td>
</tr>
<tr>
<td>USD</td>
<td>United States Dollars</td>
</tr>
<tr>
<td>VAR</td>
<td>Volt-Ampere Reactive</td>
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Section 1

INTRODUCTION, BACKGROUND

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PROJECT DETAILS
1.1 Introduction

i. Hindustan Aeronautics Limited (hereinafter called “HAL”) is a Government of India Enterprise registered under the Companies Act, 1956, under the administrative control of the Ministry of Defence (MoD). HAL has its Engine Division at Sunabeda in Koraput District of Odisha. The Division has been manufacturing and overhauling various types of aero engines for more than 5 decades.

ii. HAL, Koraput Division being a power intensive unit derives all its required power from the State Power Utility.

iii. In order to partly reduce its grid power consumption and slowly step in to the role of a prosumer HAL has decided to set up a 6 MW Solar PV Power Plant in Developer Model within its estate premises at Sunabeda on ‘Build, Own, Operate and Transfer’ basis

iv. OREDA being the State Nodal Agency for Renewable Energy and helping HAL for quite some time in developing the latter’s renewable energy portfolio, HAL has decided to engage OREDA as consultants as well as to act as nodal point for its 6.0 MW solar power project.

v. As per the terms of the engagement, OREDA shall manage this tender on behalf of HAL.

vi. HAL, Koraput Division shall enter into Power Purchase Agreement (PPA) for purchase of solar power from the selected developer on the basis of quotation for the lowest sale price of power for a period of 25 years as per the terms, conditions and provisions of the RfS as well as PPA.

1.2 Details of Project Site

i. The proposed Solar PV project is to be located over a land area of approximately 30 Acres within the estate area of HAL, Koraput Division at Sunabeda. A Google map of the earmarked site indicating the geographical coordinates has been enclosed at Annexure-A and the same has also been uploaded in the e-procurement portal which can be viewed only after logging in to the e-procurement portal.

ii. The distance between the grid substation where the solar power is proposed to be injected at the 11 KV bus of HAL and the nearest end of the proposed project site is approximately 1.5 km.
1.3 Scope of the Work

The scope of work for setting up 6.0 MW Solar PV Power Plant under Developer model shall include but not limited to the following:

i. Design, construct, erect, test, synchronize and commission the proposed 6.0 MW Solar PV power plant in the designated site.

ii. Operate and maintain the solar power plant for a period of 25 years.

iii. Sell the power generated from the power plant to HAL for period of 25 years in accordance with the terms of the PPA.

iv. The Solar Power Developer (SPD) shall construct a boundary with 3 feet high wall and 8 feet high fence all around the Solar PV power plant with suitable gate for access.

v. The SPD shall remain entirely responsible for safety and security of the solar power plant during the construction and post construction operational period. The SPD shall also provide sufficient CCTV cameras in consultation with HAL to monitor the movement of personnel including integrating the same with the existing network of CCTV cameras of HAL.

vi. The SPD shall be responsible for all associated land development works such as clearing of vegetation, leveling, civil works etc.

vii. The SPD shall provide all necessary protection devices to protect the power plant from lightening, sudden surges in voltage and current and ensure safety of the grid to which the project is connected. The SPD shall also ensure protection of life and property likely to be endangered due to installation of the solar power plant.

1.4 Selection of Technology

1.4.1 The Project envisages deployment of Solar PV Technology. However, the selection of project would be technology agnostic within the technology mentioned above. Crystalline silicon or thin film with or without trackers can be installed. Only commercially established and operational technologies can be used to minimize the technology risk and to achieve timely commissioning of the Project. The SPD is required to submit a certificate to the effect that the technology proposed to be used is commercially established technology and at least one project based on this technology is successfully operational for a period of 5 year anywhere in the world.
Section 2

DEFINITIONS
2.1 Definitions

Following terms used in the document will carry the meaning and interpretations as described below:

"Act" or "Electricity Act, 2003" shall mean the Electricity Act, 2003 and include any modifications, amendments and substitution from time to time.

“Affiliate” shall mean a Company that, directly or indirectly,

i) controls, or
ii) is controlled by, or
iii) is under common control with, a Company developing a Projector

“Bidder” shall mean Bidding Company submitting the Bid. After the selection of successful bidder, the successful bidder will be referred as “Developer”.

“Bidding Company” shall refer to such single company that has submitted the response in accordance with the provisions of the RfS.

“Capacity Utilization Factor (CUF)” shall have the same meaning as provided in OERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2009 as amended from time to time.

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

“Commercial Date of Operation” (COD) shall mean the date after which all testing and commissioning has been completed and is the initiation date to which the seller can start producing electricity for sale (i.e. when the project has been substantially completed). The Commercial Date of Operation is same as the date of commissioning.

‘Commissioning’ shall mean testing and operationalisation of the entire 6.0 MW solar power plant including all components and subcomponents such as modules, inverters, metering arrangement, evacuation arrangement, control equipment, safety and protection devices / equipment etc, and also the certificate from HAL and OREDA.
“Company” shall mean a body corporate incorporated in India under the Companies Act, 1956 or companies act 2013 as applicable

“Contracted capacity” shall mean the capacity in MW contracted with HAL for supply by the SPD to HAL at the Delivery Point from the Solar Power Project.

“Contract Year” shall mean the period beginning from the Effective Date and ending on the immediately succeeding March 31 and thereafter each period of 12 months beginning on April 1 and ending on March 31 provided that:

(i) In the financial year in which the Scheduled Commissioning Date would occur, the Contract Year shall end on the date immediately before the Scheduled Commissioning Date and a new Contract Year shall commence once again from the Scheduled Commissioning Date and end on the immediately succeeding March 31, and thereafter each period of twelve (12) months commencing on April 1 and ending on March 31, and

(ii) Provided further that the last Contract Year of the PPA shall end on the last day of the Term of the PPA.

“Control” shall mean holding not less than 51% of paid up share capital.

“Controlling shareholding” shall mean more than 50 % of the voting rights in the company.

“Day” shall mean calendar day;

“Effective Date” shall mean the date of execution of Power Purchase Agreement (PPA) by both the parties.

“Equity” shall mean

= Paid up share capital
Add: Free Reserves
Subtract: Revaluation Reserves
Subtract: Intangible Assets
Subtract: Miscellaneous Expenditures to the extent not written off and carry forward losses

Paid-up Share Capital will include:

- Paid-up equity share capital
• Fully, compulsorily and mandatorily convertible Preference shares and
• Fully, compulsorily and mandatorily convertible Debentures.

**Share premium will form an integral part of Equity provided it is realized in cash or cash equivalent. However, this condition will not apply in case of listed Companies.**

“Financial Closure or Project Financing Arrangements” means arrangements of necessary funds by the Project Developer either by way of commitments of funds by the company from its internal resources and / or tie up of funds through a bank / financial institution by way of sanction of a loan.

“Group Company” of a Company means

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

Provided that a financial institution, scheduled bank, foreign institutional investor, non-banking financial Company, and any mutual fund shall not be deemed to be Group Company, and its shareholding and the power to director cause to be directed the management and policies of a Company shall not be considered for the purposes of this definition unless it is Project Company.

“HAL” shall mean Hindustan Aeronautics Limited;

“Inter-connection point / Metering point” shall mean the point at 11 KV bus bar of HAL where the power from the solar power project will be injected into the HAL distribution system. Metering shall be done at this interconnection point.
“**L1 bidder**” shall mean the shortlisted bidder who quotes the lowest selling price/tariff per commercial unit (kWh) of electricity.

“**L2 bidder**” shall mean the shortlisted bidder who quotes the second lowest selling price/tariff per commercial unit (kWh) of electricity.

“**L3, L4, L5.....Ln bidder**” shall mean the shortlisted bidder quoting the 3rd, 4th, 5th ......nth lowest selling price/tariff per commercial unit (kWh) of electricity.

“**L1 price**” shall mean the lowest quoted selling price/tariff in Indian Rupees per commercial unit (kWh) of electricity.

“**Letter of Intent**” or “**LoI**” shall mean the letter issued by Odisha Renewable Energy Development Agency (OREDA) to the Selected Bidder for award of the Project.

“**Limited Liability Partnership**” or “**LLP**” shall mean a Company governed by Limited Liability PartnershipAct-2008.

“**LLC**” shall mean Limited Liability Company.

“**Month**” shall mean only 30 days for all transactions under this RfS

“**Parent**” shall mean a Company, which holds at least 26% equity either directly or indirectly in the Bidding Company.

“**Performance security**” shall mean a bank guarantee issued by a bank to guarantee timely and satisfactory completion of a project by a bidder.

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

“**Power Project**” or “**Project**” shall mean the solar power generation facility having separate points of injection into the grid at Inter-connection/Metering Point and having a separate boundary, control systems and metering. This includes all units and auxiliaries such as water supply, treatment or storage facilities, bay/s for transmission system in the switchyard, dedicated transmission line up to the Delivery Point and all the other assets, buildings/structures, equipment, plant and machinery, facilities and related assets required
for the efficient and economic operation of the power generation facility, whether completed or at any stage of development and construction or intended to be developed and constructed for the purpose of supply of power to HAL;

“Project Capacity” shall mean the maximum AC capacity at the delivery point that can be scheduled on which the Power Purchase Agreement shall be signed.

“Project Commissioning”: the Project will be considered as commissioned if all equipment as per rated project capacity has been installed and energy has flown into grid, in line with the Commissioning procedures defined in the PPA.

“Project Company” shall mean the company incorporated by the bidder as per the Indian Companies Act, 1956 or the Indian company act 2013 in accordance with clause 3.6.

“Project Developer” or “Developer” or “Solar Project Developer (SPD)” shall mean the Bidding Company participating in the bid and having been selected and allocated the project capacity by OREDA (through a competitive bidding process), including the SPV formed by the selected bidder for the purpose of setting up of project and signing of PPA.

“RfS document” shall mean the bidding document issued by OREDA including all attachments, clarifications and amendments thereof vide RfS no. 2332/OREDA, Dated 07/06/2018.

“Scheduled COD” shall mean the day following 3 months from the date of signing of PPA or the day following 3.5 months from date of issue of LoI, whichever is earlier.

“Selected Bidder or Successful Bidder” shall mean the Bidder selected pursuant to this RfS to set up the Project and supply electrical output as per the terms of PPA.

Special Purpose Vehicle: Special Purpose Vehicle shall mean a company registered under the Indian Companies Act 1956 or 2013 and solely created by an existing company for the purpose of setting and running the business of the 6.0 MW solar power plant under this RfS.

“Solar PV Project’ shall mean the Solar Photo Voltaic Power Project that uses sunlight for direct conversion into electricity through Photo Voltaic Technology.

‘Tariff’ shall mean the lowest quoted price per kWh of energy delivered from the proposed 6.00 MW solar power plant to the grid by the successful bidder in response to the RfS.
‘**Technology Partner**’ shall mean any entity from which the Bidder proposes to take technology support. In case Technology Partner decides to participate in equity commitment then it has to be a Company.

‘**Ultimate Parent**’ shall mean a Company, which owns at least twenty six per cent 26%) equity either directly or indirectly in the Parent and Affiliates.
Section 3

INFORMATION AND INSTRUCTIONS TO BIDDERS
3.1 Total capacity offered

The total capacity offered under this RfS for solar PV power projects is 6.0 MW. The entire capacity will be offered to a single bidder only.

Note: The capacity of the project shall be of 6.0 MW AC capacity at delivery point i.e. at the interconnection point of 11kV system at HAL Substation. The SPD shall demonstrate the contracted capacity at the delivery point, as defined in the Commissioning procedure enclosed in Annexure-B.

3.2 Obtaining RfS Document and Processing Fees

a) The RfS document can be downloaded free of cost from the website of OREDA www.oredaodisha.com as well as www.tenderwizard.com. Bidders shall have to submit the cost of Rfs document as mentioned in the Bid Information Sheet along with the bids.

Note: Interested bidders have to download the Rfs & other documents after login into www.tenderwizard.com by using the Login ID & Password provided during registration (Refer Annexure –C). The bidder shall be eligible to submit/upload the bid document only after registration and logging into the tender wizard portal.

b) The bids submitted without cost of the RfS document and EMD, shall not be considered for the bidding and such bids shall not be opened.

3.3 Bid Submission date and Bid Opening date

The bidding methodology adopted for this Project shall be Single stage Two bid system i.e. the Bidders shall upload their Project proposals (Both Techno-Commercial and Financial Bids within due date and time) in line with this RfS document. The last date for submission of bids is indicated in the Bid Information Sheet. No bids shall be accepted after the date and time mentioned above. Techno-Commercial bids shall be opened as per the schedule indicated on the Bid Information Sheet. Date of opening of financial bids shall be notified through E-mail to the all eligible Bidders short listed based on Techno-Commercial bid evaluation.
3.4 Proposal for Short-listing of Projects

Bidders may submit response to Request for Selection (RfS) for development of Solar PV power projects under this RfS as per the terms & conditions detailed herein.

3.5 Number of response to RfS by a Company

The company including its Parent, Affiliate or Ultimate Parent or any group company will be allowed to submit only one RfS for the 6.0MW Solar PV Power Plant.

3.6 Qualification Requirements:

The bidder should be a company (Bidding Company). Short-listing of the bidders will be based on meeting the qualification requirements specified for net worth and technical criteria as given below

A. Companies eligible for participation:

i) Companies incorporated in India under the Companies Act 1956 or 2013 as the case may be.

ii) Companies shortlisted in RfS can also execute the project through a Special Purpose Vehicle (SPV). However, the SPV has to be registered under the Indian Companies Act 2013 before signing of PPA keeping the original share holding unchanged.

iii) Limited Liability Partnership (LLPs)/ Limited Liability Companies (LLCs) are not eligible for participation.

B. Financial Criteria

Net worth:

The net worth of the company should be equal to or greater than INR 9.0 Crore. Computation of net worth shall be based on unconsolidated audited annual accounts of the company. The company would thus be required to submit annual audited accounts comprising of audited balance sheet, Profit and loss account, notes and cash flow statement for the financial year 2017-18, along with certificate duly stamped and signed by a Chartered Accountant to demonstrate fulfillment of the criteria.
In case of a foreign company, the company needs to submit annual account certificate from a chartered accountant or statutory auditor for the immediate previous accounting year.

For companies which are newly incorporated, the Net Worth criteria should be met on any date within seven days prior to the date of submission of RfS document by the Project Developer.

To demonstrate fulfillment of the criteria, the Bidder shall submit a certificate from a Chartered Accountant certifying the net worth on the date within seven days prior to submission of RfS. Further, the project developer shall submit the unaudited financial statements of the company for the date on which the Certificate of Chartered Accountant has been obtained.

*Note:*

For the qualification requirements, if data is provided by the bidder in foreign currency, equivalent rupees of net worth will be calculated using bills selling exchange rates (card rates) USD/INR of State Bank of India prevailing on the date of closing the accounts for the respective financial year or the date as applicable to newly incorporated companies as certified by the bidder’s banker, and on the date for indicating the net worth as applicable as per the provisions of the RfS.

i) Net Worth

=Paid-up Share Capital  
Add : Free Reserves  
Subtract: Revaluation Reserves  
Subtract: Intangible Assets  
Subtract: Miscellaneous Expenditures to the extent not written off and carry forward losses

Share premium will form an integral part of Net Worth provided it is realized in cash or cash equivalents.

Paid-up Share Capital will include:

i) Paid-up equity share capital and
ii) Fully, compulsorily and mandatorily convertible Preference Shares and

iii) Fully, compulsorily and mandatorily convertible Debentures.

For the purpose of meeting financial requirements, only unconsolidated audited accounts shall be used. However, audited consolidated annual accounts of the bidder may be used for the purpose of financial requirements provided, the bidder has at least twenty six per cent (26%) equity in each company whose accounts are merged in the audited consolidated account and provided further that the financial capability of such companies (of which accounts are being merged in the consolidated account) shall not be considered again for the purpose of evaluation of any bid.

Existing companies

The computation of net worth shall be based on unconsolidated audited annual accounts of the company. The bidder would be required to submit annual audited accounts for the last four financial years viz 2014-15, 2015-16, 2016-17 and 2017-18. If the period of existence of the company is less than four years then annual audited accounts should be submitted starting from the year of incorporation. In case of a foreign company, the same for calendar years - 2014, 2015, 2016, 2017 or the accounting year as adopted in the country of origin of the company and acceptable as per laws of the respective Country should be submitted. Net worth of individuals/ Directors, Association of Persons, Partnerships Firms, section 25 companies of the Companies Act, 1956 etc., shall not be considered for computation of Net Worth of bidders.

In case of existing companies, the Net Worth criteria shall be met as on day within seven days prior to the last date of submission of response to RfS by the bidding Companies. To demonstrate fulfillment of the criteria, the Bidder shall submit a certificate from a Chartered Accountant certifying the availability of Net Worth on the date within Seven Days prior to submission of response to RfS along with a certified copy of audited Balance Sheet, Profit and Loss account, Schedules and Cash Flow Statement supported with Bank statements. All pages of the above financial documents should be signed and stamped by the concerned Chartered Accountant as token of their endorsement of the document as well as certification.

Net worth, bank statement and shareholding pattern indicating controlling share holding should be submitted as on any date within 7 days prior to submission of the bid.
iv) Newly Incorporated Companies

For a newly incorporated company/SPVs relying solely on its credentials, where the annual accounts have not been prepared, the Net Worth criteria should be met on any day within seven days prior to the last date of submission of response to RfS by the bidding company. To demonstrate fulfillment of the criteria, the Bidder shall submit a certificate from a Chartered Accountant certifying the availability of Net Worth on any day within Seven Days prior to submission of response to RfS along with a certified copy of Balance Sheet, Profit and Loss account, Schedules and Cash Flow Statement supported with Bank statements.

All pages of the above financial documents should be signed and stamped by the concerned Chartered Accountant as token of their endorsement of the document as well as certification.

For newly incorporated companies/SPVs the bidder may seek qualification on the basis of financial capability of its parent, ultimate parent and / or its affiliate(s) for the purpose of meeting the qualification requirements.

Note:

i) Whether or not financial resources of parents and / or affiliates(s) are relied upon to achieve the required Net Worth, the required net Worth has to be infused in the project Company before signing of PPA. The Bank statement will also be required to be submitted before 7 days of signing of PPA. For exhibiting shareholding pattern indicating the controlling share holding a certificate from the Chartered Accountant should be submitted as on any date within 7 days prior to the date of submission of the bid document.

ii) It is not necessary to have the technology partner at RfS stage. Further it is also not necessary for the technology partner to have an equity stake in the bidding company.

iii) Net worth, bank statement and shareholding pattern indicating controlling shareholding should be submitted as on any date within 7 days prior to submission of the bid.

C) Technical Criteria

The bidder shall deploy commercially established technologies wherein there is at least
one project successfully operational of the proposed technology, for at least five years, anywhere in the world. The undertaking shall be as per enclosed Format – 6.7. Detailed technical parameters for the project are given at Annexure-D.

3.7 Connectivity with Grid

i) The plant should be designed for interconnection with the 11kV system at HAL Substation. Tentative layout of the proposed connectivity plan will have to be submitted by the SPD along with the bid document.

ii) The maintenance of Transmission system up to the Inter-connection Point shall be the responsibility of the SPD.

iii) The arrangement of connectivity can be made by the SPD through a dedicated transmission line which the SPD may construct himself or get constructed by STU or Discom or any other transmission agency. The entire cost of transmission including cost of construction of line, wheeling charges if any and losses etc. from the Project up to the Delivery Point will be borne by the SPD and will not be met or reimbursed by HAL.

iv) The scheduling of the power from the project as per the applicable regulation shall be the responsibility of the SPD and any financial implication on account of scheduling and forecasting such as UI charges etc. shall be on the account of SPD.

v) Reactive power charges as per CERC/ OERC regulations shall be payable by SPD as per provisions of PPA.

vi) Metering arrangement of the project shall have to be adhered to in line with relevant clause of PPA.

3.8 Criteria for generation

The SPD will declare the annual Capacity Utilization Factor (CUF) of the Project at the time of commissioning and will be allowed to revise the same within 1 year of commissioning. The declared annual CUF shall in no case be less than 18% over a year. SPD shall maintain generation so as to achieve annual CUF within +10% and -15% of the declared value till the end of 10 years from COD subject to the annual CUF remaining minimum of 15% and within +10% and -20% of the declared value of the annual CUF thereafter till the end of the PPA duration of 25 years. The lower limit will, however, be relaxed by HAL to the extent of non-
availability of grid for evacuation which is beyond the control of the SPD. The annual CUF will be calculated every year from 1st April of the year to 31 March next year.

(i) Shortfall in generation
If for any Contract Year, it is found that the SPD has not been able to generate minimum energy corresponding to the value of annual CUF below the lower limit of CUF declared by the SPD, on account of reasons solely attributable to the SPD, such shortfall in performance shall make the SPD liable to pay the compensation as payable to HAL and shall duly pay such compensation to HAL. The amount of compensation shall be equal to the positive difference in per unit rate payable by HAL to Discom and the PPA tariff. The determination of compensation shall as per terms of the PPA. This compensation shall be applied to the amount of shortfall in generation during the Contract Year. However, this compensation shall not be applicable in the events of Force Majeure identified under the PPA with HAL, affecting supply of solar power by SPD.

(ii) Excess generation
Any excess generation shall be sold only to HAL as per the PPA tariff. While the SPD would be free to install DC solar field as per his design of required output, including his requirement of auxiliary consumption, in case at any point of time, the peak of capacity reached is higher than the rated capacity and causes disturbance in the system at the point where power is injected, the SPD will have to forego the excess generation and reduce the output to the rated capacity.

3.9 Clearances required from the State Government and other local bodies
The Solar Project Developer is required to obtain all necessary clearances and permits as required for setting up the Solar PV Power Projects. However, OREDA will facilitate for getting the feasibility/connectivity Letter from STU/DISCOM to the SPD before signing of PPA.

3.10 Bank Guarantees and Earnest Money
The Bidder shall provide the following Bank Guarantees and Demand Drafts from any of the Banks listed at Annexure-E to OREDA as detailed hereunder:

- Earnest Money Deposit of INR 50 lakhs in the form of Demand Draft or in the form of BG (as per the format at Annexure-J) along with RfS (The EMD shall be refunded
to all unsuccessful bidders without any bank interest only after acceptance of the LoI by the successful bidder. In the case of the Successful Bidder the EMD shall be retained till the Achievement of Commercial Date of Commissioning and shall be returned after the COD without any interest.)

- After the bidding process is over, OREDA shall release the EMD of the unsuccessful Bidders within 45 days after the issue of Letter of Intent (LOI) to the successful Bidder.

- The SPD selected based on this RfS is required to sign PPA with HAL within 7 working days from the date of issue of LOI. In case, HAL offers to execute the PPA with the Select Bidder and if the Select Bidder does not submit the requisite documents or does not meet eligibility criteria upon submission of documents or does not execute the PPA within the stipulated time period, then the DD/BG submitted towards EMD shall be forfeited. OREDA reserves the right to allocate the project to the next eligible bidder shortlisted based as per the least price quoted per kWh of solar power.

- Performance Bank Guarantee of INR 500 lakhs to OREDA before signing of PPA as per Format – 6.3 valid for a period of 6 months from the date of signing of PPA.

- Bank Guarantees issued by foreign banks outside India from bank list given in Annexure–E is to be endorsed by the Indian Branch of the same bank or State Bank of India. Bank Guarantee would be required to be submitted in the form of Performance Bank Guarantee (PBG) at the time of signing of PPA and the Total Performance guarantee of INR 500 lakhs shall be submitted in three Numbers of Bank Guarantee in the ratio of 20%, 40% and 40% to OREDA, at least 7 days before signing of PPA with HAL.

- In case, the Selected Bidder is unable to execute the PPA within the stipulated time period as specified in the RfS, the Bank Guarantees and EMD shall be encashed by OREDA.

- The format of the PBG 6.2 B shall be in the form as given and any deviation from the above Formats may result in rejection of the PBG and consequently, the bid/Project.

- The Bank Guarantees have to be executed on non-judicial stamp paper of appropriate value as per Stamp Act relevant to place of execution.
- The Bank Guarantees have to be in the name of the bidding Company.
- In order to facilitate the bidders to submit the Bank Guarantee as per the prescribed format and in line with the requirements, checklist at Appendix A (format 6.3) has been attached. Bidders are advised to take note of the above checklist while submitting the Bank Guarantees.
- All expenditure towards execution of Bank Guarantees such as stamp duty etc. shall be borne by the Bidders.
- The PBG of SPD shall be returned to the SPD within 30 days after successful commissioning of the project, after taking into account any liquidated damages due to delays in commissioning.

3.11 Power Purchase Agreement

i. The PPA shall be executed between the selected bidder and HAL within 7 working days from the date of issue of LoI by OREDA. Power purchase Agreement will be for 25 years from the date of scheduled COD.

ii. Before signing of PPA between the successful bidder(s) and HAL, OREDA will verify the documents furnished by the bidders at the time of submission of response to RfS or at any later date including availability of Net Worth to the extent claimed with original documents and bank statements and shareholding of the Project Company along with a copy of complete documentary evidence claimed for meeting the RfS eligibility conditions. For newly incorporated companies the required net worth has to be infused in the company, if applicable. Bank statement, share holding pattern (indicating the controlling shareholding) and net worth certificate submitted at this stage should be duly certified by the chartered accountant as on any date within 7 days prior to submission of the same. Net worth for this purpose should be shown as on any date within 7 days prior to the date of submission of the document. All such documents should therefore be submitted to OREDA at least 7 days before signing the PPA. HAL will sign the PPA only after receiving clearance from OREDA with regards to fulfillment of different requirements by the successful bidder as per RfS. If at this stage it is found that the documents furnished by the bidders during RfS are incomplete, misleading or misrepresented in any manner then the provisions contained in this RfS will be applicable. For non-submission of performance guarantee or any required document as per the provisions of
RfS, OREDA will cancel the LoI and take necessary action as per the provisions of RfS. OREDA will finalize the PPA in consultation with HAL before signing of the same as per the terms and conditions of the RfS.

3.12 Submission of Response to RfS by the Bidder

The response to RfS shall be submitted both in Hard copy and uploaded on online portal. The response will contain the following:


2. Earnest Money Deposit (without any claim for interest), cost of RfS document and non-refundable processing fee are to be deposited in shape of Demand Draft.

3. Performance Guarantee (to be submitted at the time of signing of PPA) in shape of Bank Guarantee as per Format 6.2.

4. Board Resolutions, as per prescribed formats enclosed as Format 6.3 duly certified by the Company Secretary or the Director of the relevant Bidder, as applicable to the Bidder and mentioned hereunder.
   
   a. Board resolution from the Bidding Company as the case may be in favour of the person signing the response to RfS.
   
   b. Board Resolution from the Bidding Company committing one hundred per cent (100%) of the equity requirement for the Project.

   c. Board Resolutions from Parent and / or Affiliate (whose credentials were used in the response to RfS), of the Bidding Company, undertaking to invest the entire amount as committed by Bidding Company, in event of failure of the same to make such investment.

5. Format for financial Requirement as per Format 6.4 as applicable.

6. Format for Technical Criteria wherein Bidder shall certify that the technology to be adopted shall be commercially established technology and is under operation for at least five year. Final details of the same shall be submitted within 30 days of signing of PPA as per Format 6.5.

7. A letter from the Bidder confirming connectivity of the Project as per Format 6.6

8. A disclosure statement as per Format 6.7 regarding participation of any related...
companies in this bidding process.


10. Checklist for Bank Guarantee as per Appendix-A.

11. A copy of filled techno commercial bid.


13. Other relevant documents.

Wherever information has been sought in specified formats, the Bidders shall fill in the details as per the prescribed formats and shall refrain from referring to any other document for providing any information required in the prescribed format.

The Bidder should note that:

a. The bidder may be short listed based on the declarations made by it in relevant schedules of the RfS. The document submitted along with bid may be verified before signing of PPA.

b. If the Bidder conceals or does not submit any information, any document, bank guarantee, or any material information or makes a wrong statement or misrepresents facts or makes a misleading statement in its response to RfS, in any manner whatsoever, the OREDA reserves the right to reject such response to RfS and/or cancel the Letter of Intent, if issued and in such event the Bank Guarantee provided shall be encashed and the EMD shall also be forfeited.

c. If the event specified at (a) is discovered after the Effective Date i.e. date of signing the PPA, consequences specified at (b) above shall apply.

d. Response submitted by the Bidder shall become the property of OREDA who shall have no obligation to return the same to the Bidder.

e. All pages of the response to RfS submitted must be initialed and stamped by the person authorised by the board as per Format 6.4, on behalf of the Bidder as a token of unconditional acceptance of all terms and conditions mentioned in the bid document.
f. The response to RfS shall be submitted as mentioned in clause 3.13. No change or supplemental information to a response to RfS will be accepted after the scheduled date and time of submission of response to RfS. OREDA reserves the right to seek additional information from Bidders, if found necessary, during the course of evaluation of the response to RfS.

g. All the information should be submitted in English language only.

h. All fees and charges should be deposited as specified for each under this RfS document only. No other mode of payment will be accepted.

i. Bidder shall mention the name of the contact person and complete address of the Bidder in the covering letter.

j. Response to RfS that are incomplete, which do not substantially meet the requirements prescribed in this RfS, will be liable for rejection by OREDA.

k. Response to RfS not submitted in the specified formats will be liable for rejection by OREDA.

l. Bidders not submitting any additional information or clarifications as sought by OREDA on or before the dates stipulated by the respective organizations will be liable for rejection by OREDA.

m. It is the responsibility of the bidder/successful bidder to comply with all the criteria and terms and conditions of the RfS, and for which OREDA will not be responsible. Non submission and/or submission of incomplete data/information required under the provisions of RfS shall not be construed as waiver on the part of OREDA of the obligation of the Bidder to furnish the said date/information unless such waiver is given in writing.

n. If necessary, after issue of LoI or at any point of time OREDA reserves the right to seek additional information or documents as per the requirement of RfS. Non submission of any relevant information or relevant document or bank guarantee will lead to rejection of the LoI even after issue of the same. Under any circumstance non fulfillment of any criteria and any terms and conditions under the RfS, OREDA reserves the right to cancel the LoI and such decision of OREDA will be final and binding.

o. All the bidders are advised to visit the website of OREDA i.e www.oredaorissa.com before submitting the RfS.
p. Only Courts in Bhubaneswar and High Court of Odisha shall have exclusive jurisdiction in all matters pertaining to this RfS document.

3.13 Method of Bid Submission

The bids will have to be submitted both online and in hard copy as per the procedure mentioned in Annexure-C and Clause 3.12.

3.14 Validity of the Response to RfS

The Bidder shall submit the response to RfS which shall remain valid up to three hundred sixty five days (365) days from the last date of submission of response to RfS (“Bid Validity”). OREDA reserves the right to reject any response to RfS which does not meet the aforementioned validity requirement.

3.15 Preparation Cost

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

3.16 Enquiries/Clarifications

The bidder may in their own interest visit the project site with own arrangement, any time before submission of Bid. For such site visits the bidders may submit their requests to:

Mr. Nandish.S, DGM, Services, HAL, Koraput Division

Contact Number:06853-222343

Mail: nandish@hal-india.com

Pre Bid meeting

- Clarifications / Doubts, if any on RfS document may be addressed to Chief Executive, Odisha Renewable Energy Development Agency at the address mentioned above on or before Dtd. 18.06.2018. OREDA will respond to the same in the Pre Bid Meeting to be held on Dtd. 18.06.2018 at 11:30 A.M. in the OREDA Conference Hall, S-59, Mancheswar Industrial Estate, Bhubaneswar-751010, and Odisha.

- Based on the feedback and the inputs given during the pre-bid meeting OREDA will upload the revised RfS document on its website and e-tendering
website if necessary.

- No bids are to be submitted before the pre-bid meeting. The bidders are advised to submit bids only after the issue of corrigendum, if any following the pre bid meeting.
- In case there is any corrigendum, OREDA will upload the same on its website within 7 days from the date of pre bid meeting.

3.17 Right of OREDA to reject

OREDA reserves the right to reject all or any of the response to RfS or cancel the RfS without assigning any reasons whatsoever and without any liability.

3.18 Minimum equity to be held by the promoter:

i. The company developing the project shall provide the information about the Promoters and their shareholding in the company to OREDA indicating the controlling shareholding at the stage of submission of RfS.

ii. No change in the controlling shareholding of the bidding company developing the project shall be permitted from the date of response to the RfS till the execution of the PPA. However, in case the Project is developed by a listed Company this condition will not be applicable. (Listed companies must submit proof of such listing by stock exchange(s))

iii. The controlling shareholding shall mean 51% of the voting rights in the company.

iv. After execution of the PPA, the controlling shareholding of the bidding company in the project company developing the project shall be maintained for a period of (1) one year after Commercial Operation Date (COD). Thereafter any change can be undertaken under intimation to OREDA.

3.19 Financial closure or project financing arrangements:

The Project shall achieve Financial Closure within 02 months from the date of signing Power Purchase Agreement (PPA), in the form of loan sanction letter for debt component and Board Resolution for equity contribution and availability of sufficient equity in the company as can be examined through their Balance Sheet or sufficient strength with their parent company (if any) so that they can infuse required amount of equity in the Developer
Company (as and when required). No extension shall be granted for achieving this milestone. At this stage, the SPD shall report tie-up of Financing Arrangements for the Project. In this regard the SPD shall submit a certificate from all financing agencies regarding the tie-up of funds and furnish documentary evidence for infusion of actual equity requirement, subject to a minimum of Rs. 9.0 Cr (Including 1.5 Cr/ MW infused at the time of signing of PPA). Further, the SPD would furnish within the aforesaid period, the necessary documents to establish that the requisite technical criteria have been fulfilled. Further, the SPD shall furnish documentary evidence towards meeting the requisite technical criteria and placement of orders/entering into agreements, for supply of plants and equipment for the project.

In case of delay in achieving above condition as may be applicable, OREDA shall revoke the Performance Bank Guarantees.

3.20 Commissioning schedule and penalty for delay in commissioning:

Commissioning of the project including testing and operationalisation of the entire 6.0 MW solar power plant including all components and subcomponents such as modules, inverters, metering arrangement, evacuation arrangement, control equipment, safety and protection devices / equipment etc and also the certificate from HAL and OREDA must be done as per the scheduled COD. It would be incumbent on the developer to fully comply with this.

Under normal circumstances the plant has to be commissioned within 3 months from the date of Signing of the PPA or 3.5 months from the date of issue of LoI whichever is earlier. In case of failing to achieve this milestone, OREDA shall encash the Performance Bank Guarantee (PBG) in the following manner.

a) Delay up to one month from scheduled COD: 20% of the PBG.
b) Delay of more than one month upto two months from scheduled COD: 40 % of the total PBG.
c) Delay of more than two months upto 4 months from scheduled COD: remaining PBG +EMD.

In case commissioning of the project is delayed beyond 4 months from scheduled date of commissioning (scheduled COD), the project developer shall pay to OREDA the liquidated damages @ Rs 1.00 lakh per MW per day of delay.

Non-realization of the aforementioned liquidated damages or non-commissioning of the project within 150 days from scheduled COD will result in cancellation of the project and
PPA regardless to the status of the project. In case of delay it will be incumbent upon the bidder to make all the payments/ penalty to HAL.

During the installation and commissioning process, the developer will be required to submit the following documents (Hard and Softcopy on the letter head of the Developer and stamped by the Developer) to OREDA in a timely manner, at least one month before the commissioning, so that necessary verification by OREDA, HAL, OPTCL/DISCO can be done before commissioning (as per Annexure-D).

(a) Sl. No. of all modules.
(b) I-V Curve including wattage of each module.
(c) PV model Testing Report (as per Annexure-D)
(d) Warranty as per Annexure-D
(e) Identification and Traceability (as per Annexure-D)
(f) Certificate of quality of module (as per Annexure-D)
(g) All technical details of Inverter, SCADA System, Wires, Cables, including all peripherals
(h) Protection devices (lightening arrester, earthing, etc.) and their technical specifications.
(i) Protection devices for the safety of Grid at the time of connectivity, and their Technical Specifications.
(j) Copy of the bills of module, balance of system, and all other items.
(k) Commissioning Report from HAL and OREDA.
(l) Any other information as per RfS.

In the event of any conflict of interpretation in terms and conditions between RfS document and PPA or in case of any ambiguity, the provisions of these RfS guidelines would prevail.

3.21 **Notice board for display:**

Before declaration of the COD, the selected SPD will have to put a notice board (at least 180cm x 120cm) at its project site main entrance prominently displaying the following message before declaration of COD.
6.0 MW Grid Connected Solar PV Project
for supply of power to HAL, Sunabeda, Koraput

Owned and operated by

---------------------
(insert name of the SPD)

LOCATION:
Hindustan Aeronautics Limited, Sunabeda, Koraput-763002
Section 4

BID EVALUATION CRITERIA

&

SELECTION OF PROJECT DEVELOPER
4.1 Important notes and instructions to Bidders

a. Wherever information has been sought in specified formats, the Bidders shall fill in the details as per the prescribed formats and shall refrain from any deviations and referring to any other document for providing any information required in the prescribed format.

b. The Bidders shall be shortlisted based on the declarations made by them in relevant schedules of RfS. The documents submitted along with the bid may be verified before signing of PPA.

c. If the Bidder conceals any material information or makes a wrong statement or misrepresents facts or makes a misleading statement in its response to RfS, in any manner whatsoever, OREDA reserves the right to reject such response to RfS and/or cancel the Letter of Intent, if issued and the DD/Bank Guarantee provided upto that stage shall be forfeited/encashed. Bidder shall be solely responsible for disqualification based on their declaration in the submission of response to RfS.

d. Response submitted by the Bidder shall become the property of the HAL and the HAL shall have no obligation to return the same to the Bidder. However, the EMDs submitted by unsuccessful Bidders shall be returned.

e. All documents of the response to RfS submitted online must be digitally signed by the person authorized by the Board as per Format 6.2.

f. The response to RfS shall be submitted as mentioned in Clause 3.13. No change or supplemental information to a response to RfS will be accepted after the scheduled date and time of submission of response to RfS. HAL reserves the right to seek additional information from the Bidders, if found necessary, during the course of evaluation of the response to RfS.

g. The bidder shall make sure that the correct, valid Bid-part is submitted to HAL on or before the commencement of the Online Tender Opening.

h. All the information should be submitted in English language only.

i. Bidders shall mention the name of the contact person and complete address of the Bidder in the covering letter.

j. Responses to RfS that are incomplete, which do not substantially meet the requirements prescribed in this RfS, will be liable for rejection by HAL.
k. Response to RfS not submitted in the specified formats will be liable for rejection by HAL.

l. Bidders delaying in submission of additional information or clarifications sought shall be liable for rejection.

m. Non submission and/or submission of incomplete data/information required under the provisions of RfS shall not be construed as waiver on the part of HAL of the obligation of the Bidder to furnish the said data/information unless the waiver is in writing.

n. Only High Courts, Odisha shall have exclusive jurisdiction in all matters pertaining to this RfS.

4.2 Evaluation Process

The evaluation process comprises of the following three steps:

- Step I- Responsiveness check
- Step II- Technical Bid evaluation
- Step III – Financial/ Tariff Bid evaluation
- Step IV- Electronic Reverse Auction

**Step I- Responsiveness check**

The response to RfS submitted by the bidder shall be scrutinised to establish “Responsiveness”. Each bidder’s response to RfS shall be checked for compliance with the submission of requirements set forth in this RfS.

Any of the following conditions shall cause the bid to be “Non-responsive”:

a. Response to RfS having Conflict of Interest

b. Non submission of Processing fee or EMD in acceptable form along with RfS document

c. Non submission of Documents as per the Annexure3

d. Non-submission of all relevant documents related to Net Worth, Shareholding, etc. as required in this RfS document.

e. Non submission of Memorandum and Articles of Association (highlighting relevant

f. Non-submission of RfS document duly signed and stamped on every page.

g. Submission of financial documents without the signature of the Chartered Accountant on all pages of the same.

h. If the bid and other documents are submitted in language other than English.

Note: Non responsive bids will not be considered for step II bid evaluation.

Step II- Technical Bid evaluation

Step II (Bid evaluation) will be carried out considering the information furnished by Bidders as prescribed under Section 6- Formats. This step would involve evaluation of the response to RfS of the bidding Company as per the provisions specified in Section 3 of this RfS.

Bidders qualifying in the Step II technical bid evaluation will be shortlisted for financial/tariff bid evaluation.

Step III- Financial/Tariff Bid evaluation

The financial/tariff bid evaluation will be carried out only for shortlisted bidders.

Step-IV- Electronic Reverse Auction

1. Procedure for electronic Reverse Auctioning (e-RA):
   a. The e-RA shall be conducted on www.tenderwizard.com only.
   b. e-RA shall be carried out on the day of opening of financial bids which will be intimated only to the technically qualified bidders by OREDA.
      b. OREDA reserve the right to conduct e-RA and it is obligatory on part of bidder to participate in e-RA process once they have responded to the RfS.

2. After financial bid evaluation, the bidders shall be shortlisted in ascending order of quoted prices for tariff. Out of the total number of such bidders, top 50% of the bidders starting from the L1 Bid subject to minimum of 3 bids shall be eligible for e-RA. (eg. If 4 bidders are financially evaluated then the L1, L2 and L3 bidders shall be eligible for e-RA.)
   In case situation arises where odd number (n) bidders qualify in financial bid
evaluation, then the number of bidders to be invited for e-RA shall be \((n+1)/2\).

The e-RA shall be conducted as follows:

At least three day’s prior intimation will be given to all techno-commercially qualified bidders regarding the date of opening of the financial bids as well as e-RA.

3. Masking of Names:
Names of bidders/ vendors shall not be disclosed during the eRA process. Names of bidders/ vendors shall be anonymously masked in the eRA process and they will be given suitable alias names.

i. The minimum decrement value for discounted tariff shall be ₹ 0.01 per kWh. The bidder can mention its revised discounted tariff which has to be at least 1 paisa less than its current discounted tariff.

ii. Bidders can only quote any value lower than their previous tariff taking into consideration of the minimum decrement value mentioned in the previous clause. However, at no stage, increase in tariff will be permissible.

iii. At any point during Reverse Auction, tariff field shall remain enabled for the bidder.

iv. The initial auction period will be of one (01) hour with a provision of auto extension by ten minutes from the scheduled/extended closing time if any fresh bid is received in last ten minutes of auction period or extended auction period.

Please note that

• The auto-extension will take only if a bid comes in those last 10 minutes and if that bid gets accepted by the system. If the bid does not get accepted, the auto extension will not take place even if that might have come in last 10 minutes.

• In case, there is no bid in the last 10 minutes of closing of e-RA, the auction shall get closed automatically without any extension.

• However, vendors are advised not to wait till the last minute or last few seconds to enter their bid during the auto extension period to avoid complication related with internet connectivity, network problem, system crash down, power failure etc.

v. You are required to submit your acceptance to the terms/ conditions/ modalities given in the tender document along with the Technical Bid. In non receipt of the same, vendor will not be allowed to participate in eRA. (Annexure- I)
4.3 Short-listing of bidders

Only those responses to RfS which are received by due date and time at the office of OREDA will be taken up for evaluation. The responses will be evaluated based on the qualification requirements and all those responses meeting the qualification requirements shall be shortlisted.

4.4 Selection of bidders:

i. Selection of eligible bidders will be based on least quoted price per commercial unit of electricity.

ii. The bidders will be required to submit Financial Bid on On-line Portal only in the sample format given. The hard copy of it in no case will be accepted. Submission of hard copies of price bids along with the hard copy of the technical bid will be liable for rejection of the bid. The evaluation will be based on the lowest price per kWh (levelised tariff over a period of 25 years).

iii. After opening of the tariff bids the bidders will be listed in the order of their quoted tariff as L1, L2, L3……………….Ln, and L1 price will be discovered.

iv. Taking the above discovered L1 price as the upper limit e-RA will be conducted to determine the lowest possible price.

v. The bidder who quotes the lowest possible price per kWh for sale of solar electricity to HAL will be issued LoI to set up the entire project of 6.0 MW. Such LoI will be sent to the registered email address of the bidder. A hard copy will also be sent to the official address of the bidder.

vi. The bidder is required to communicate acceptance within 7 days of issue of the email.

vii. In case L1 bidder does not communicate acceptance to the LoI within 7 days from the date of issue of the LoI (excluding the date of issue), then its EMD will be forfeited and L2 bidder will be issued LoI for the entire project of 6 MW at L1 price.

viii. In case L2 bidder does not communicate acceptance of the LoI within 07 days from the date of issue of the LoI, LoI will then be issued to L3 bidder at L1 price. In case of non-acceptance the project will be offered in the above manner to L3, L4….Ln bidder at L1 price. In case none of the bidder accept to take up the project at L1 price then the project will be subject to retender.
ix. The successful bidder will be required to submit all the relevant documents to prove his Net Worth on any date within 7 days prior to submission along with bank statement and Chartered Accountant’s Certificate within 21 days of issue of LoI. Besides, all the relevant documents as stipulated in the RfS Document are to be submitted within 21 days of issue of LoI.

x. Net worth, bank statement and share holding pattern indicating controlling share holding should be submitted as on any date within 7 days prior to submission.

xi. For newly incorporated companies the required net worth has to be infused in the company, if applicable.

After the EMD is returned to unsuccessful bidders, in case the successful bidder is not able to undertake commissioning of the project, and in case the LoI is cancelled by OREDA, then other bidders may be asked to undertake installation and commissioning of the project. Such offers will be given to other bidders at L1 price/tariff based on their position with respect to their quoted tariff. The bidder who has quoted the next least tariff will be invited first and he will be required to deposit EMD and fulfill all the requirements of the RfS document. The decision of OREDA will be final in this matter.

Note: In case, L1 or any of the bidders fails to take up the project after acceptance then besides forfeiting its EMD and revocation of Performance bank Guarantee, the bidder will be blacklisted and the event of such blacklisting will be intimated to all concerned and posted on the website of OREDA. Under such circumstance the decision of OREDA will be final.
Section 5

OTHER PROVISIONS
5.1 Force Majeure

Force Majeure means any event or circumstance, which may include rebellion, mutiny, civil unrest, riot, fire explosion, flood, cyclone, lightening, earth quake, war, or an act of God, if such event or circumstance is beyond the reasonable direct or indirect control and without the fault or negligence of the party claiming Force Majeure and which results in such Party’s inability, notwithstanding its reasonable best efforts, to perform its obligations in whole or in part. The developer/ bidder rendered unable to perform by reason of Force Majeure shall notify OREDA of such circumstances and shall exercise due diligence to end of the inability as promptly as practicable. The time frames for performance shall be extended by the number of days that performance is excused due to force Majeure with due approval of OREDA. In such matters OREDA reserves the right to examine and review the circumstances.
Section 6

FORMATS FOR BID SUBMISSION
Format 6.1 - Format of Covering Letter

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

Date: ____________________________

From: ____________________________ (insert name and address of Bidding Company)

Mob/Tel. #:

Fax#:

E-mail address#

To

Chief Executive

Odisha Renewable Energy Development
Agency S-59, Mancheswar Industrial Estate
Bhubaneswar-751010, Odisha

Sub: Response to RfS for setting up 6.0 MW Solar PV Power Plant for HAL, Koraput Division, Sunabeda, District: Koraput, Odisha

Dear Sir,

We, the undersigned ……. [insert name of the ‘Bidder’] having read, examined and understood in detail the RfS including Qualification Requirements in particular and PPA for supply of power for 25 years to HAL, hereby submit our response to RfS for setting up 6.0 MW solar PV power plant in HAL, Koraput division, Sunababeda.

We confirm that neither we nor any of our Parent Company/ Affiliate/ Group Company has submitted response to RfS other than this response to RfS, directly or indirectly, in response to the aforesaid RfS.

1. We give our unconditional acceptance to the RfS, dated ……………… and PPA attached thereto, issued by the OREDA. In token of our unconditional acceptance to the RfS & PPA, the same have been initialed and stamped by us on all pages and enclosed with the response to RfS. We shall ensure that the PPA is executed as per the provisions of the RfS and provisions of PPA shall be
binding on us. Further, we confirm that the Project shall be commissioned
within 3 months of the date of signing of PPA or 3.5 months from the date of
issue of LoI whichever is earlier.

2. Earnest Money Deposit (EMD) : - (Strike out whichever is not applicable)

(a) We have enclosed EMD of Rs...................... (Insert Amount), in the form of
bank draft no...................... [Insert bank draft number] dated ................. [Insert date
of bank draft] from ...................... [Insert name of bank providing bank draft] or
in the form of Bank Guarantee (BG) no...................... [Insert BG number] dated
................. [Insert date of BG] from ...................... [Insert name of bank providing
BG]

3. We have submitted our response to RfS strictly as per Section–6(Formats) of
this RfS, without any deviations, conditions and without mentioning any
assumptions or notes in the said Formats.

4. Acceptance

We hereby unconditionally and irrevocably agree and accept that the decision
made by the OREDA in respect of any matter regarding or arising out of the RfS
shall be binding on us. We hereby expressly waive any and all claims in respect
of this process.

5. Familiarity with Relevant Indian Laws & Regulations

We confirm that we have studied the provisions of the relevant Indian laws and
regulations as required to enable us to submit this response to RfS and execute
the PPA, in the event of our selection as Successful Bidder.

6. We are enclosing herewith our response to the RfS with formats duly signed as
desired by you in the RfS for your consideration.

7. It is confirmed that our response to the RfS is consistent with all the requirements of
submission as stated in the RfS and subsequent communications from the OREDA.

8. The information submitted in our response to the RfS is correct to the best of
our knowledge and understanding. We would be solely responsible for any
errors or omissions in our response to the RfS.

9. Contact Person

Details of the contact person are furnished as under:

Name : .................................
Designation:  ..................................................

Company :  ..................................................

Address :  ..................................................

Mobile No:  ..................................................

Fax Nos. :  ..................................................

E-mail address: ...........................................

Dated the ______ day of ______, 20...

Thanking you,

Yours faithfully,

(Name, Designation and Signature of Person Authorized by the board)

Note: All papers that comprise the bid document of the concerned bidder must be numbered at the top right hand corner of each page, properly stitched and hard bound. At the beginning an index of each page should also be provided.
Format 6.2 – Format for Performance Bank Guarantee

(Note:- Total Performance Guarantee is to be submitted in 3 Nos. of Bank Guarantee in the ratio of 20%, 40% & 40% Value.)

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

In consideration of the ------------ [Insert name of the Bidder] (hereinafter referred to as selected Solar Power Developer’) submitting the response to RfS inter alia for selection of the project of the capacity of 25 MW, at ............[Insert name of the place], for supply of power there from on long term basis, in response to the RfS dated ............issued by Odisha Renewable Energy Development Agency (hereinafter referred to as OREDA) and OREDA considering such response to the RfS of ............[insert the name of the selected Solar Power Developer][which expression shall unless repugnant to the context or meaning thereof include its executers, administrators, successors and assignees] and selecting the Solar Power Project of the developer and issuing Letter of Intent No------to (Insert Name of selected Solar Power Developer) as per terms of RfS and the same having been accepted by the selected SPD resulting in a Power Purchase Agreement (PPA) to be entered into, for purchase of Power [from selected Solar Power Developer or a Project Company, M/s------------ {a Special Purpose Vehicle (SPV) formed for this purpose}, if applicable ]. As per the terms of the RfS, the_______[insert name & address of bank] hereby agrees unequivocally, irrevocably and unconditionally to pay to OREDA at [Insert Name of the Place from the address of the OREDA] forthwith on demand in writing from OREDA or any Officer authorized by it in this behalf, any amount up to and not exceeding Rupees------[Total Value] only, on behalf of M/s[Insert name of the selected Solar Power Developer / Project Company]

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

Our liability under this Guarantee is restricted to Rs. __________ (Rs.}
only) ------[Insert amount not less than Rs. 3000 Lakhs].

Our Guarantee shall remain in force until [Insert date] OREDA shall be entitled to invoke this Guarantee till [Insert date].

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

The Guarantor Bank hereby expressly agrees that it shall not require any proof in addition to the written demand by OREDA, made in any format, raised at the above mentioned address of the Guarantor Bank, in order to make the said payment to OREDA.

The Guarantor Bank shall make payment hereunder on first demand without restriction or conditions and not withstanding any objection by [Insert name of the selected Solar Power Developer/Project Company as applicable] and/or any other person. The Guarantor Bank shall not require OREDA to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against OREDA in respect of any payment made hereunder.

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

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

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

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

The Guarantor Bank acknowledges that this BANK GUARANTEE is not personal to OREDA and may be assigned, in whole or in part, (whether absolutely or by way of security) by OREDA to any entity to whom OREDA is entitled to assign its rights and obligations under the PPA.
Notwithstanding anything-contained hereinabove, our liability under this Guarantee is restricted to Rs.________________________(Rs.________only) and it shall remain in force until________________________with an additional claim period of thirty (30) days there after. We are liable to pay the guaranteed amount or any part there of under this Bank Guarantee only if OREDA serves upon us a written claim or demand.

Signature____________________

Name____________________

Power of Attorney No.______________

For

_____[Insert Name of the Bank]

Banker's Stamp and Full Address.

Dated this day of, 20

Witness:

1........................................

Signature

Name and Address

2........................................

Signature

Name and Address

Notes:
The Stamp Paper should be in the name of the Executing Bank.
The Performance Bank Guarantee shall be executed by any of the Bank from the List of Banks enclosed.
# CHECK LIST FOR BANK GUARANTEES

<table>
<thead>
<tr>
<th>Sl.No.</th>
<th>Details of checks</th>
<th>YES/NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td>a)</td>
<td>Is the BG on non-judicial Stamp paper of appropriate value, as per applicable Stamp Act of the place of execution</td>
<td></td>
</tr>
<tr>
<td>b)</td>
<td>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).</td>
<td></td>
</tr>
<tr>
<td>c)</td>
<td>In case of BGs from Banks abroad, has the BG been executed on Letter Head of the Bank endorsed by SBI, India.</td>
<td></td>
</tr>
<tr>
<td>d)</td>
<td>Has the executing Officer of BG indicated his name, designation and Power of Attorney No./Signing Power no. on the BG?</td>
<td></td>
</tr>
<tr>
<td>e)</td>
<td>Is each page of BG duly signed / initialed by executant 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 proforma?</td>
<td></td>
</tr>
<tr>
<td>f)</td>
<td>Does the Bank Guarantees compare verbatim with the Proforma prescribed in the Bid Documents?</td>
<td></td>
</tr>
<tr>
<td>i)</td>
<td>Are the factual details such as Bid Document No. / Specification No., / Lol No. (if applicable) / Amount of BG and Validity of BG correctly mentioned in the BG</td>
<td></td>
</tr>
<tr>
<td>j)</td>
<td>Whether overwriting/cutting if any on the BG have been properly authenticated under signature &amp; seal of executant?</td>
<td></td>
</tr>
<tr>
<td>k)</td>
<td>Whether the BG has been issued by a Bank in line with the provisions of Bidding documents?</td>
<td></td>
</tr>
<tr>
<td>l)</td>
<td>In case BG has been issued by a Bank other than those specified in Bidding Document, is the BG confirmed by a Bank in India acceptable as per Bidding documents?</td>
<td></td>
</tr>
<tr>
<td>m)</td>
<td>Whether three numbers of Bank guarantees in the ratio of 20%, 40% and 40%, validity of Performance Guarantee as per time schedule given in clause3.10.</td>
<td></td>
</tr>
</tbody>
</table>
Format 6.3 - Format for Board Resolutions

(Format for the Board resolution to be passed)

The Board, after discussion, at the duly convened Meeting on .......... (Insert date), with the consent of all the Directors present and in compliance of the provisions of the Companies Act, 1956, passed the following Resolution:

1. RESOLVED THAT Mr/Ms....................., be and is hereby authorized to do on our behalf, all such acts, deeds and things necessary in connection with or incidental to our response to RfS for setting up 6.0 MW Solar PV Power Plant for HAL, Koraput Division, Sunabeda, District: Koraput, Odisha, including signing and submission of all documents and providing information/ response to RfS to OREDA, representing us in all matters before OREDA, and generally dealing with OREDA in all matters in connection with our bid for the said Project. (To be provided by the Bidding Company)

2. FURTHER RESOLVED THAT pursuant to the provisions of the Companies Act, 1956 and compliance thereof and as permitted under the Memorandum and Articles of Association of the company, approval of the Board be and is hereby accorded to invest total equity in the Project. (To be provided by the Bidding Company)

3. FURTHER RESOLVED THAT approval of the Board be and is hereby accorded to M/s. ........................................... (Insert name of Bidding Company) to use our financial capability for meeting the Qualification Requirements for setting up a 6.0 MW solar PV power plant in Odisha and confirm that all the equity investment obligations of M/s........................................... (Insert Name of Bidding Company), shall be deemed to be our equity investment obligations and in the event of any default the same shall be met by us. [To be passed by the entity(s) whose financial credentials have been used i.e. Parent and / or its affiliate.]

Certified true copy

__________________________________________

(Signature, Name and stamp of Company Secretary / Director)
Notes:

1) This certified true copy should be submitted on the letter head of the Company, signed by the Company Secretary /Director.

2) The contents of the format may be suitably re-worded indicating the identity of the entity passing the resolution.

3) This format may be modified only to the limited extent required to comply with the local regulations and laws applicable to a foreign entity submitting this resolution. For example, reference to Companies Act 1956 may be suitably modified to refer to the laws applicable to the entity submitting the resolution. However, in such case, the foreign entity shall submit an unqualified opinion issued by the legal counsel of such foreign entity, stating that the Board resolutions are in compliance with the applicable laws of the respective jurisdictions of the issuing company and the authorizations granted therein are true and valid.
To,

Chief Executive
Odisha Renewable Energy Development
Agency S-59, Mancheswar Industrial Estate
Bhubaneswar-751010, Odisha

Sub: Response to RfS for setting up 6.0 MW Solar PV Power Plant for HAL, Koraput Division, Sunabeda, District: Koraput, Odisha.

Dear Sir,

We certify that the Bidding Company ______________________ [Name of Bidding Company] has a minimum Net Worth of Rs. _____ Crore (Rupees ______________________) on

(i) For Existing Companies

<table>
<thead>
<tr>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net Worth as on day dd/mm/yyyy (within seven days prior to the last date of submission of response to RfS by the bidding companies)</td>
</tr>
<tr>
<td>Applicable/Not Applicable</td>
</tr>
</tbody>
</table>

(ii) For new Companies

Net Worth as on day dd/mm/yyyy (not more than seven days prior to the last date of submission of response to RfS by the bidding companies)

Exhibit (i): Applicable in case of Bidding Company

For the above calculations, we have considered the Net Worth by Bidding Company and/ or its Parent / Affiliates as per following details:
<table>
<thead>
<tr>
<th>Name of Company / Parent/ Affiliate Group Company</th>
<th>Name of Company / Parent/ Affiliate whose Net Worth is to be considered</th>
<th>Relationship with Bidding Company*</th>
<th>Net Worth of the respective Company not later than 7 days prior to submission of RfS</th>
<th>Net Worth (in Rs. Crore) of the Member Company</th>
</tr>
</thead>
<tbody>
<tr>
<td>Company 1</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>Total</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td></td>
</tr>
</tbody>
</table>

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

(Signature & Name of the person Authorised By the board) (Signature and Stamp of Statutory Auditor or Chartered Accountant)

Date:

Note: (i) Along with the above format, in a separate sheet, provide details of computation of Net Worth duly certified by Statutory Auditor.

(ii) Certified copies of Balance sheet, Profit & Loss Account, Schedules and Cash Flow Statements and Bank statement by bank are to be enclosed in support thereof for confirmation of balance in cash & bank.
[On the letter head of Bidder]

Format 6.5 - FORMAT FOR TECHNICAL CRITERIA

To,

Chief Executive
Odisha Renewable Energy Development Agency S-59, Mancheswar Industrial Estate Bhubaneswar-751010, Odisha

Dear Sir,

Sub: Response to RfS for setting up 6.0 MW Solar PV Power Plant for HAL, Koraput Division, Sunabeda, District: Koraput, Odisha.

We hereby undertake that the technology proposed to be used for establishment of the above 6.0 MW Solar Power project is a commercially established technology and is successfully operational at ______________________ (Address) since _____________ (xx-xx-xxxx).

The detailed technical specifications, operational parameters and performance details have been enclosed herewith.

Authorised Signatory

Stamp
(On the letterhead of the Bidding Company)

Format 6.6 Format for Confirmation of Connectivity

(To be filled separately for individual Locations)

To,

Chief Executive
Odisha Renewable Energy Development Agency S-59, Mancheswar Industrial Estate Bhubaneswar-751010, Odisha

Dear Sir,

Sub: Response to RfS setting up 6.0 MW Solar PV Power Plant for HAL, Koraput Division, Sunabeda, District: Koraput, Odisha.

1. We hereby agree to provide connectivity from the proposed solar power plant to nearest 11 KV distribution sub-station of HAL as may be available at our own cost for all the items as mentioned in the RfS document like transmission lines, grid interface equipment, metering, bay etc.

2. We hereby undertake to obtain the letter from transmission utility /distribution utility confirming connectivity before and after the same is carried out.

3. We hereby undertake to sign necessary Power Purchase Agreement with HAL as specified in the RfS.

Authorized Signatory

Stamp
Format 6.7 - Format for Disclosure

[On the letter head of Bidding Company]

Disclosure

We hereby declare that our Parent, Affiliate or Ultimate Parent-or any Group Company with which we have direct or indirect relationship are not separately participating in this selection process.

We further declare that the above statement is true & correct. We are aware that if at any stage it is found to be incorrect, our response to RfS bid will be rejected and if LoI has been issued or PPA has been signed, the same will be cancelled and the bank guarantees will be encashed.

(Signature & Name of the person Authorised By the board)
Format 6.8 Declaration by the Solar power Developer for the proposed technology

[On the letter head of Bidding Company]

<table>
<thead>
<tr>
<th></th>
<th>Name of Bidding Company</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Project proposed</td>
</tr>
<tr>
<td>3</td>
<td>Capacity proposed (in MW)</td>
</tr>
<tr>
<td>4</td>
<td>Technology proposed to be adopted for the project to supply the required annual</td>
</tr>
<tr>
<td></td>
<td>a Crystalline Silicon Solar Cell Modules</td>
</tr>
<tr>
<td></td>
<td>b Thin Film Modules</td>
</tr>
<tr>
<td></td>
<td>c Concentrator PV Modules</td>
</tr>
<tr>
<td></td>
<td>d Any Other Technology (Please specify)</td>
</tr>
<tr>
<td>5</td>
<td>Give brief about the proposed Technology</td>
</tr>
</tbody>
</table>

Signature of the Bidder

Stamp
Annexure
Commissioning Procedure

*(liable to change)*

i) At the time of commissioning, OREDA shall verify compliance of technical parameter of the Project as per Annexure B of the RFS document.

ii) The SPD shall give to the HAL and OREDA at least twenty (20) days advance preliminary written notice and at least ten (10) days advance final written notice, of the date on which it intends to synchronize the Power Project to the Grid System. The SPD shall be solely responsible for any delay or non-receipt of the notice by the concerned agencies, which may in turn affect the Commissioning Schedule of the Project.

iii) A Solar PV Project will be considered as commissioned if all equipment as per rated project capacity has been installed and energy has flown into the grid.

iv) SPD shall ensure that the equipment up to the rated Capacity has been installed and completed in all respects before the Schedule Commissioning Date. The same shall be verified by HAL during the visit to the Project site and documented as per prescribed format.

The SPD will have to submit following the documents to OREDA for verification/cross check.

1. Covering Letter
2. Board resolution for authorized signatory.
3. Invoice of the major equipment (including but not limited to modules, Inverters/PCUs, Weather Monitoring Stations/DC Cables and for all the equipment as available).
4. All supporting documents towards meeting the technical compliance along with datasheet/ warranty certificates/ contract agreement etc. as mentioned in Annexure-D
5. Installation report.
6. Plant Layout clearly mentioning the details of rows and number of modules in each row.
7. Electrical inspector report along with all annexures/attachments. It would be the responsibility of the SPD to collect the certificate.
8. SPD shall ensure Connectivity to the grid from concerned STU/DISCOM. Connectivity report to be submitted.
9. Synchronization Certificate as per prescribed format issued by the OPTCL/DISCOM for ascertaining injection of power into grid.
10. Snap shots of the plant from various angles shall be taken for covering installation of important components of the solar power plant and made part of Installation Report.

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

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

vi) After the proposed commissioning date along with commissioning order is submitted, the OREDA/HAL shall visit the site within 05 working days to verify the technical compliance on site as per the information submitted by the bidder. In case OREDA finds discrepancy/deviation from the information submitted by the SPD during on site verification, the committee (set up by OREDA) shall schedule its next visit only on the next available date as per the availability of all the committee members.

vii) SPD shall have to submit the as-built drawing after the commissioning prior to the COD.

viii) Early Commissioning of a Solar Project prior to the scheduled commissioning date is permitted on acceptance of power by OREDA. In order to facilitate this, SPD shall inform the OREDA and HAL well in advance the date on which it intends to synchronize the Power Project to the Grid System. The SPD shall be required to give an advance notice of at least 20 days prior to the proposed commissioning date.

ix) Joint Meter Reading (JMR) shall be taken at Delivery Point at the time of connectivity of the Project with Grid. This shall include information of respective meters installed at delivery/interconnection point and plant premises.

x) SPD shall schedule the Commissioning of the Project as per the commissioning procedure.

Solar Project Developers would be required to plan commissioning/synchronization with grid at least ten days ahead of the last permissible date for commissioning in accordance with MNRE guidelines.

If not done so, whole responsibility for not meeting the deadline for commissioning on account of inability of the Committee to visit the project site for commissioning rests solely on the developer.
SUBMISSION OF BIDS:

- The bids must be submitted only online on www.tenderwizard.com/OREDA portal.
- The bidder must ensure that the bids are received in the specified website as per the date and time indicated in the Tender notice.
- The bidders are advised to register their user ID, Password, company ID on website www.tenderwizard.com/OREDA by clicking on hyper link “Register Me”.

PROCEDURE FOR SUBMISSION OF ONLINE BIDS

A. ACQUISITION OF DIGITAL SIGNATURE CERTIFICATE

For participating in the bid it is mandatory to procure the Digital Signatures of Class III only.

B. REGISTRATION IN TENDER WIZARD PORTAL

- Log in www.tenderwizard.com/OREDA Click “Register”, fill in the online registration Form.
- Un-registered bidders are required to pay registration fee of Rs 2300/- to M/s KSEDCL, Bangalore in tender wizard e-payment mode only.
- All bidders are required to pay the tender processing charge of Rs. 5900/- to M/s KSEDCL, Bangalore in tender wizard portal in e-payment mode only.
- As soon as the verification is done the e-tender user ID will be enabled/provided.

c. ON-LINE REQUEST FOR e-TENDER DOCUMENTS

After viewing Tender Notification in www.tenderwizard.com/OREDA if bidder intends to participate in tender, it has to use its e-tendering User ID and Password which has been received after registration and acquisition of DSCs (Digital signature certificate) and to follow the step by step instructions given below.

- Insert the PKI (which consists of your Digital Signature Certificate) in your System.
  (Note: Make sure that necessary software of PKI has been installed in your system)
- Click / Double Click to open the Microsoft Internet Explorer
  (This icon will be located on the Desktop of the computer)
- Go to Start > Programs > Internet Explorer. Type www.tenderwizard.com/OREDA in
the address bar, to access the Login Screen.

- Enter e-tender User Id and Password, click on “Go”.
- Click on “Click here to login” for selecting the Digital Signature Certificate. Select the Certificate and enter DSC Password. Re-enter the e-Procurement User Id Password.
- Click “Un Applied” to view / apply for new tenders.
- Click on Request icon for online request. After making the request, bidder has to pay the requisite tender processing fee (as indicated in tender notice) through e-payment facility only available in the portal. Bidders will receive the Tender Documents which can be checked and downloaded by following the below steps.
  - Click on the “Show form” icon.
  - Tender documents will appear on the screen.
  - Click “Click here to download” to download the documents.

D. **SUBMISSION OF EMD AND TENDER COST:**

The bidders shall have to scan the **Demand Draft/ BG** towards EMD and Tender Cost and upload the same in .pdf or .jpg format.

E. **SUBMISSION OF TECHNO-COMMERCIAL BIDS:**

- The techno-commercial bid sheets in .xls format are to filled up and upload without changing the file name. Submission of incomplete techno commercial bid sheets will be liable for rejection of the bid.

- Scanned copies of all related documents as per the checklist shall be uploaded in .pdf or .jpg format prior to last date and time of receipt of bids as specified in tender Notice.

F. **SUBMISSION OF PRICE BIDS**

- The bidder should fill up price schedule in the given bid sheets in .xls format and upload the same without changing the file name. The bid will be rejected if the schedule of price is submitted in incomplete form.

After completing all the formalities, Bidders will have to submit the tender as specified in NIT and must take care of all instructions. Prior to submission, verify whether all the required documents have been attached and uploaded to the particular tender or not.

**Note:**

- The bid sheets (.xls file) shall be uploaded in [www.tenderwizard.com/OREDA](http://www.tenderwizard.com/OREDA) portal, prior to online closing of the tender. By no other means (except online) price bid shall be accepted for evaluation of tender.

- Please note down or take a print of bid control number once it displayed on the screen.
G. SUBMISSION OF HARD COPIES

- Along with the e-tender, bidders shall also submit hard copies of all uploaded as well as other documents as asked for in the bid document in the form of a single hard bound book properly page numbered and indexed.
  
  **No loose/ separate paper or spiral bound documents will be accepted.**

- The bidders must sign at the bottom of all the pages of the hard bound book including each page of the bid document (which will also form an integral part of the hard bound book) as token of unconditional acceptance of the departmental terms and conditions, technical specifications etc.

- The Hard bound copy must be submitted in OREDA office at S-57, Mancheswar Industrial Estate, Bhubaneswar 751010 on or before the stated date in the manner prescribed elsewhere in the document. Submission extra/ unrelated documents may be avoided.

  **Note:**
  Filled in price bids/copies of the uploaded price bids must not be submitted in hard form. Submission of the same in hard form will liable the tender for rejection.

The hard copy of the response to RfS is to be submitted in sealed envelope in the following manner;

i. 1st Envelop Super scribed as

   “1st Envelope containing Cost of Bid Document, Processing Fee, Demand Draft/BG towards EMD” at the top of the Envelop and

   “Name and Address of the Bidder” on the left hand side bottom; and addressed to OREDA shall contain DD of Rs 11,200/- towards cost of RfS Document and DD/BG of Rs 50 lakhs towards EMD to be submitted in separate envelops.

ii. 2nd Envelop Super scribed as

   “2nd Envelope containing RfS for supply of Solar Power” at the top of the Envelop;

   “Name and Address of the Bidder” on the left hand side bottom; and addressed to OREDA shall contain covering letter and all other documents and formats as specified in section 6.0 of this RfS document, except tariff bid 3rd Envelop super scribed as

   “3rd envelope containing the 1st and 2nd” at the top of the envelop “Name and Address of the Bidder” on the left hand side bottom; and shall contain the 1st and 2nd Envelop and submitted to OREDA at the address mentioned Below:-
Address of OREDA:

Chief Executive
Odisha Renewable Energy Development Agency (OREDA)
S-59, Mancheswar Industrial, Estate Bhubaneswar-751010, Odisha

Note:

1. All papers that comprise the bid document of the concerned bidder must be numbered at the top right hand corner of each page, properly stitched and hard bound. At the beginning an index of each page should also be provided.

2. The hard copy of the bid documents as per above can be dropped in the tender box kept in OREDA office in the above address on all working days within 11.00 A.M. to 4.00 P.M after Pre bid meeting. The tender box will be closed for dropping and will be sealed at 1.00 P.M. of 02.07.2018

3. Alternatively, the bid documents can be sent by post or courier to the above address so as to reach the addressee on or before 1.00 P.M of 02.07.2018.

4. OREDA shall not be responsible for any delay due to what so ever reasons in delivery of the documents.

For any assistant related to E-Tendering process, Contact:
E-Tendering help desk number: 080- 40482000/121/133/140 (Bangalore)
OREDA Help Desk- 09776823641/09937140591
Annexure D

Technical Qualification requirement in case of Solar PV Project

The following are some of the technical measures required to ensure quality of the PV modules used in grid connected solar power projects.

1. **PV Module Qualification**

   The PV modules used in the grid connected solar power projects must qualify to the latest edition of any of the following IEC PV module qualification test or equivalent BIS standards.

   - Crystalline Silicon Solar Cell Modules: IEC61215
   - Thin Film Modules: IEC61646
   - Concentrator PV modules: IEC62104

   In addition, PV modules must qualify to IEC 61730 for safety qualification testing. For the PV modules to be used in a highly corrosive atmosphere throughout their lifetime, they must qualify to IEC61701.

2. **Authorized Test Centers**

   The PV modules must be tested and approved by one of the IEC authorized test centers. In addition a PV module qualification test certificate as per IEC standard, issued by Solar Energy Centre, MNRE, New Delhi will also be valid.

3. **Warranty**

   The mechanical structures, electrical works and overall workmanship of the grid solar power plants must be warranted for a minimum of 5 years.

   PV modules used in grid connected solar power plants must be warranted for output wattage, which should not be less than 90% at the end of 10 years and 75% at the end of 25 years.
4. **Identification and Traceability**

Each PV module used in any Solar PV Project must use a RF identification tag (RFID). The following information must be mentioned in the RFID used on each module (This can be inside or outside the laminate, but must be able to withstand harsh environmental conditions.)

(i) Name of the manufacturer of PV Module  
(ii) Name of the Manufacturer of Solar cells  
(iii) Month and year of the manufacture (separately for solar cells and module)  
(iv) Country of origin (separately for solar cells and module)  
(v) I-V curve for the module  
(vi) Wattage, Im, Vm and FF for the module  
(vii) Unique Serial No and Model No of the module  
(viii) Date and year of obtaining IEC PV module qualification certificate  
(ix) Name of the test lab issuing IEC certificate  
(x) Other relevant information on traceability of solar cells and module as per ISO 9000

All Grid connected Solar PV Projects must install necessary equipment to continuously measure solar radiation, ambient temperature, wind speed and other weather parameters and simultaneously measure the generation of DC power as well as AC power generated from the plant. It is also required that suitable SCADA system with facilities for remote monitoring must be installed. They will be required to provide remote access to the above data to OREDA as well as submit the same through a monthly report for the entire duration of Power Purchase Agreement.
List of Banks

A. SBI AND ASSOCIATES

1. State Bank of India
2. State Bank of Bikaner & Jaipur
3. State Bank of Hyderabad
4. State Bank of Indore
5. State Bank of Mysore
6. State Bank of Patiala
7. State Bank of Travancore

B. NATIONALISED BANKS

1. Allahabad Bank
2. Andhra Bank
3. Bank of India
4. Bank of Maharashtra
5. Canara Bank
6. Central Bank of India
7. Corporation Bank
8. Dena Bank
9. Indian Bank
10. Indian Overseas Bank
11. Oriental Bank of Commerce
12. Punjab National Bank
13. Punjab & Sind Bank
14. Syndicate Bank of India
15. Union Bank of India
16. United Bank of India
17. UCO Bank
18. Vijaya Bank
19. Bank of Baroda

C. SCHEDULED FOREIGN BANKS

1. Bank of America N.A.
2. Bank of Tokyo Mitsubishi UFJ Ltd.
3. BNP Paribas
4. Citi Bank N.A.
5. Deutsche Bank A.G
6. The Hongkong and Shanghai Banking Corp. Ltd.
7. Standard Charted Bank
8. Societe General

9. Barclays Bank
10. ABN Amro Bank N.V.
11. Bank of Nova Scotia
12. Development Bank of Singapore (DBS, Bank Ltd.)

D. Scheduled Private Bank

1. Federal Bank Ltd
2. ING Vysya Bank Ltd
3. Axis Bank Ltd.
4. ICICI Bank Ltd.
5. HDFC Bank Ltd.
6. Yes Bank Ltd.
7. IndusInd Bank Ltd.
8. IDBI Bank Ltd.
Annexure-F

Check list for submission of documents after issue of LOI.

(i) Bank Statement, share holding pattern, Profit & Loss Account, and net worth (Certified by CA).
(ii) Net worth Infusion for newly incorporated company (Certified by CA).
(iii) Controlling share holding details for the company (Certified by CA).
(iv) Any other document as per RfS.
Annexure-G

Check list for submission of documents before signing of PPA

(i) Bank Statement, share holding pattern, Profit & Loss Account, and net worth Certified by CA).

(ii) Net worth Infusion for newly incorporated company (Certified by CA).

(iii) Controlling share holding details for the company (Certified by CA).

(iv) Performance Guarantee in shape of Bank Guarantee (clause3.18) as per Appendix ‘A’ (Format6.2)

(v) Formation of SPV, if applicable.

(vi) Any other document as per RfS.
Check list for submission of document after signing of PPA

(i) Financial closure or financing arrangements

(ii) Technology Certificate as per format 6.7

(iii) Certificate from transmission utility (section 3D) is to be submitted at the time of financial closure

(iv) Submission of details about the following (Hard and Soft copy on the letter head of the Developer and stamped by the Developer):
(a) Sl. No. of all Solar PV modules.
(b) I-V Curve including wattage of each module.
(c) PV model Testing Report (as per Annexure-D)
(d) Warranty certificate (as per Annexure-D)
(e) Identification and Traceability (as per Annexure-D)
(f) Certificate of quality of module (as per Annexure-D)
(g) All technical details of Inverter, SCADA System, Wires, Cables including all peripherals
(h) Protection devices (lightening arrester, earthing, etc.) and their technical specifications.
(i) Protection devices for the safety of Grid at the time of connectivity, and their Technical Specifications.
(j) Copy of the bills of module, balance of system, and all other items.
(k) Commissioning Report from HAL and OREDA.
(l) Any other information as per RfS.

Note: All the above are to be submitted as per the provisions under this RfS.
(To be submitted on letter head of the bidding company and along with Technical bid)

To,

Chief Executive
Odisha Renewable Energy
Development Agency S-59,
Mancheswar Industrial Estate
Bhubaneswar-751010, Odisha

Sub: Agreement to the Process related Terms & Conditions for e-Reverse Auction

Dear Sir,

This letter is to confirm that:

- The undersigned is authorized representative of the company.
- We have studied the Commercial Terms and the Business rules governing the Reverse Auction as mentioned in your letter and confirm our agreement to them.
- We also confirm that we have taken the training on the auction tool and have understood the functionality of the same thoroughly.
- We, hereby, confirm that we will honour the Bids placed by us during the tendering/ e- Reverse auction process as called as eRA.
- We also confirm that we will accept our Rank / Position that will be displayed when the Bidding Time is over of the Online Reverse Auction.

With regards,

Signature with company seal Name –
Company / Organization –
Designation within Company / Organization – Address of Company / Organization –
Annexure-J

Model Bank Guarantee format for Furnishing EMD

Whereas ................................................................. (herein after called “tenderer”) has submitted their offer dated ......................... for the supply of ----------- -------------------------- (herein after called “tenderer”) against the purchaser’s tender enquiry No. .................................................................

KNOW ALL MEN by this present that we ................................................................. of ................................................................. having registered office at ................................................................. are bound onto ................................................................. (herein after called “Purchaser”) in the sum of ................................................................. for which payment will and truly to be made to the said purchaser, the bank binds itself, its successors and assigns by this presents.

Sealed with the Common Seal of the said Bank this .........................day of 20......

THE CONDITIONS OF THIS OBLIGATIONS ARE

1) If the tenderer withdraws or amends, impairs or derogates from the tender in any respect within the period of validity of this tender.

2) If the tenderer having been notified of the acceptance of his tender by the purchaser during the period of its validity;
   a. If the tenderer fails to furnished the performance security for the due performance of the contract.
   b. Fails or refuses to accept / execute the contract.

We undertake to pay the purchaser up to the above amount upon receipt of its first written demand, without the purchaser having to substantiate its demand, provided that in its demand the purchaser will note that the amount claimed by it due to it owing to the occurrence of one or both the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force up to and including 45 days after the period of tender validity and any demand in respect thereof should reach the bank not later than the above date.

Our ......................... branch at .................................................................* (Name and address of the .................* branch) is liable to pay the guaranteed amount depending on the filling of claim and any part thereof under this bank Guarantee only and only if you serve upon us at our .........................* branch a written claim or demand and received by us at our .........................* branch on or before Dt......................... otherwise bank shall be discharged of all liabilities under this guarantee thereafter.

.................................................................

Signature if the authorized officer of the bank .................................................................

Name and Designation of the officer .................................................................

Seal, Name and address of the Bank and the Branch

* Preferably at the head quarter of the authority competent to sanction the expenditure for purchase of goods or at the concerned district headquarter or the state headquarter.
STANDARD

POWER PURCHASE AGREEMENT

BETWEEN

M/s ...........................................................

AND

HINDUSTAN AERONAUTICS LIMITED

Koraput Division

For Purchase of Power from 6.0 MW Solar PV Power Plant

In HAL Estate Area, Sunabeda, Koraput District

............. [Insert month and year]
THIS POWER PURCHASE AGREEMENT herein after called the “Agreement” entered into at HAL, Sunabeda on this...... day of ...........month of........ Between M/s ---------------------------------------- ----, a ------------------------------------------ firm with its Registered office located at-------------------------- ----------------------------------------------------------------------------------------------------------------------------------(herein after referred to as “Solar Project Developer (SPD)”), which expression shall unless repugnant to the context or meaning thereof, include its successors and permitted assigns as party of the first part;

And

The Koraput Division of HINDUSTAN AERONAUTICS LIMITED, a Government of India Enterprise registered under the Companies Act, 1956, under the administrative control of the Ministry of Defence (MoD) Government of India represented by Its Executive Director (herein after called “HAL”), which expression shall unless repugnant to the context or meaning thereof shall include its successors and permitted assigns as party of the second part.

AND WHEREAS, HAL Koraput Division being a power intensive unit deriving all its required power from the State Power Utility is desirous of partly substituting its grid power consumption by purchasing solar power from the 6 MW Solar PV Power Plant built , owned and operated by the first party on the land provided by the second party within its estate area

NOW,THEREFORE, in consideration of the matters described above and the covenants in this Agreement, the SPD and HAL agree to sell/purchase electricity generated from Solar Power Project and intending to be legally bound, agree as follows.

The SPD and HAL, Koraput are individually referred to as ‘Party’ and collectively referred to as ‘Parties’.

Whereas:

A. [Insert Name of the SPD], has been declared as a successful bidder against RfS No. 2332 /OREDA dated 07.06.2018 issued by OREDA for selection of SPD for development of capacity of 6.0 MW in HAL, Koraput and have been issued Letter of Intent (LOI) [Insert LOI No.] dated ............... for development of a Solar Power Project of 6 MW capacity as well as generation and sale of solar power to HAL.

B. Pursuant to the issuance of LOI by OREDA to the SPD, the SPD has agreed to set up the Solar Power Project based on Photo Voltaic technology of 6.0 MW capacity at HAL, Koraput.

C. The SPD has agreed to sign this Power Purchase Agreement with HAL, Koraput to
sell Solar Power to HAL, Koraput as per the terms and conditions of this Agreement.

D. HAL, Koraput has agreed to purchase such Solar Power from SPD as a buyer.

E. The SPD has submitted the Performance Bank Guarantee to OREDA as per the format provided in the RfS document.

F. HAL, Koraput agrees to procure power from the SPD up to the Contracted Capacity (as defined herein) at a pre-determined Tariff as per Article 9 of this Agreement and as per the terms of this Agreement.

G. The Parties hereby agree to execute this Power Purchase Agreement setting out the terms and conditions for the sale of power by SPD to HAL, Koraput.

NOW THEREFORE, IN CONSIDERATION OF THE PREMISES AND MUTUAL AGREEMENTS, COVENANTS AND CONDITIONS SET FORTH HEREIN; IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:
1 **ARTICLE 1: DEFINITIONS AND INTERPRETATION**

**Definitions**

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

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Act” or “Electricity Act, 2003”</td>
<td>shall mean the Electricity Act, 2003 and include any modifications, amendments and substitution from time to time;</td>
</tr>
<tr>
<td>“Agreement” or “Power Purchase Agreement” or “PPA”</td>
<td>shall mean this Power Purchase Agreement including its recitals, amended or modified from time to time in accordance with the terms hereof;</td>
</tr>
<tr>
<td>“Appropriate Commission”</td>
<td>shall mean the Central Electricity Regulatory Commission referred to in sub-section (1) of section 76 or the State Electricity Regulatory Commission referred to in section 82 or the Joint Electricity Regulatory Commission referred to in Section 83 of the Electricity Act 2003, as the case may be;</td>
</tr>
<tr>
<td>“Bill Dispute Notice”</td>
<td>shall mean the notice issued by a Party raising a Dispute regarding a Monthly Bill or a Supplementary Bill issued by the other Party;</td>
</tr>
<tr>
<td>“Bulk Consumer”</td>
<td>shall have the same meaning as provided in CERC (Indian Electricity Grid Code) Regulations, 2010 as amended from time to time;</td>
</tr>
<tr>
<td>“Business Day”</td>
<td>shall mean with respect to SPD and HAL, KORAPUT, a day other than Sunday or a statutory holiday, on which the banks remain open for business in KORAPUT;</td>
</tr>
<tr>
<td>“Capacity Utilisation Factor” or “CUF”</td>
<td>shall have the same meaning as provided in CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2009 as amended from time to time. However for avoidance of any doubt, it is clarified that the CUF shall be calculated on the Contracted Capacity;</td>
</tr>
<tr>
<td>“CERC”</td>
<td>shall mean the Central Electricity Regulatory Commission of India, constituted under sub–section (1) of Section 76 of the Electricity Act, 2003, or its successors;</td>
</tr>
<tr>
<td>“Change in Law”</td>
<td>shall have the meaning ascribed thereto in Article 12 of this Agreement;</td>
</tr>
<tr>
<td>“Commissioning”</td>
<td>shall have the meaning ascribed thereto in Article 5 of this Agreement;</td>
</tr>
<tr>
<td>“Commercial Operation Date (COD)”</td>
<td>shall be the actual date of commissioning of full capacity (i.e. the full capacity of the Power Project has been commissioned and the SPD starts scheduling and injecting power from the Power Project to the Delivery Point) of the Project as declared by the OREDA/HAL,KORAPUT</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
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</tr>
<tr>
<td>“Competent Court of Law”</td>
<td>shall mean any court or tribunal or any similar judicial or quasi-judicial body in India that has jurisdiction to adjudicate upon issues relating to this Agreement;</td>
</tr>
<tr>
<td>“Consents, Clearances and Permits”</td>
<td>shall mean all authorizations, licenses, approvals, registrations, permits, waivers, privileges, acknowledgements, agreements, or concessions required to be obtained from or provided by any concerned authority for the purpose of setting up of the generation facilities and / or supply of power;</td>
</tr>
<tr>
<td>“Consultation Period”</td>
<td>shall mean the period of sixty (60) days or such other longer period as the Parties may agree, commencing from the date of issuance of a SPD Preliminary Default Notice or HAL, KORAPUT Preliminary Default Notice as provided in Article 13 of this Agreement, for consultation between the Parties to mitigate the consequence of the relevant event having regard to all the circumstances;</td>
</tr>
<tr>
<td>“Contract Year”</td>
<td>shall mean the period beginning from the Effective Date and ending on the immediately succeeding March 31 and thereafter each period of 12 months beginning on April 1 and ending on March 31 provided that: (i) in the financial year in which the COD would occur, the Contract Year shall end on the date immediately before the COD and a new Contract Year shall commence once again from the COD and end on the immediately succeeding March 31, and thereafter each period of twelve (12) months commencing on April 1 and ending on March 31, and (ii) provided further that the last Contract Year of this Agreement shall end on the last day of the Term of this Agreement;</td>
</tr>
<tr>
<td>&quot;Contracted Capacity&quot;</td>
<td>shall mean 6.0 MW (AC) contracted with HAL, KORAPUT for supply by the SPD to HAL, KORAPUT at the Delivery Point from the Solar Power Project;</td>
</tr>
<tr>
<td>“Day”</td>
<td>shall mean a day, if not a Business Day, the immediately succeeding Business Day;</td>
</tr>
<tr>
<td><strong>“Delivery / Interconnection / Metering Point”</strong></td>
<td>shall mean the point at 11 kV switchgear of the load centre of HAL, KORAPUT where the power from the solar power project is injected (including the dedicated transmission line connecting the power project with the interconnection point). Metering shall be done at this interconnection point where the power is injected i.e. the Delivery Point. For interconnection with grid and metering, the SPDs shall abide by the relevant CERC/OERC Regulations, Grid Code, and Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended and revised from time to time. All charges and losses related to Transmission of power from project up to delivery point (including but not limited to open access, transmission, wheeling, Unscheduled Interchange, Scheduling , Reactive power etc.) as notified by the competent authority / regulator up to the Delivery Point shall be borne by the SPD .</td>
</tr>
<tr>
<td><strong>“Discoms”</strong></td>
<td>shall mean the distribution utility or the distribution utilities;</td>
</tr>
<tr>
<td><strong>“Dispute”</strong></td>
<td>shall mean any dispute or difference of any kind between HAL, KORAPUT and the SPD, in connection with or arising out of this Agreement including but not limited to any issue on the interpretation and scope of the terms of this Agreement as provided in Article 16 of this Agreement;</td>
</tr>
<tr>
<td><strong>“Due Date”</strong></td>
<td>shall mean the thirtieth (30th) day after a Monthly Bill or a Supplementary Bill is received and duly accepted by HAL, KORAPUT, if such day is not a Business day, the immediately succeeding Business Day, by which date such Monthly Bill or a Supplementary Bill is payable by HAL, KORAPUT;</td>
</tr>
<tr>
<td><strong>“Effective Date”</strong></td>
<td>shall have the meaning ascribed thereto in Article 2.1 of this Agreement;</td>
</tr>
<tr>
<td><strong>“Electricity Laws”</strong></td>
<td>shall mean the Electricity Act, 2003 and the rules and regulations made there under from time to time along with amendments thereto and replacements thereof and any other Law pertaining to electricity including regulations framed by the Appropriate Commission;</td>
</tr>
<tr>
<td><strong>“Energy Accounts”</strong></td>
<td>shall mean the regional energy accounts/state energy accounts as specified in the Grid Code issued by the appropriate agency for each Month (as per their prescribed methodology), including the revisions and amendments thereof;</td>
</tr>
<tr>
<td><strong>“Event of Default”</strong></td>
<td>shall mean the events as defined in Article 13 of this Agreement;</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
</tr>
<tr>
<td>-------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>“Expiry Date”</td>
<td>shall mean the date occurring twenty five (25) years from the Commercial Operation Date of the Project subject to that the supply of power shall be limited for a period of 25 years from the Unit Commercial Operation Date of respective Unit(s) unless extended by the Parties as per this Agreement;</td>
</tr>
<tr>
<td>“Financing Agreements”</td>
<td>shall mean the agreements pursuant to which the SPD has got financing for the Power Project including the loan agreements, security documents, notes, indentures, security agreements, letters of credit and other documents, as may be amended, modified, or replaced from time to time, but without in anyway increasing the liabilities of HAL, KORAPUT;</td>
</tr>
<tr>
<td>“Force Majeure” or “Force Majeure Event”</td>
<td>shall have the meaning ascribed thereto in Article 11 of this Agreement;</td>
</tr>
<tr>
<td>“Grid Code” / “IEGC” or “State Grid Code”</td>
<td>shall mean the Grid Code specified by the CERC under Clause (h) of Sub-section (1) of Section 79 of the Electricity Act, as amended from time to time, and/or the State Grid Code as specified by the concerned State Commission, referred under Clause (h) of Sub-section (1) of Section 86 of the Electricity Act 2003, as applicable;</td>
</tr>
<tr>
<td>“Indian Governmental Instrumentality”</td>
<td>shall mean the Government of India, Governments of state(s) of Odisha and any ministry, department, board, authority, agency, corporation, commission under the direct or indirect control of Government of India or any of the above state Government(s) or both, any political subdivision of any of them including any court or Appropriate Commission(s) or tribunal or judicial or quasi-judicial body in India;</td>
</tr>
<tr>
<td>“Insurances”</td>
<td>shall mean the insurance cover to be obtained and maintained by the SPD in accordance with Article 8 of this Agreement;</td>
</tr>
<tr>
<td>“Interconnection Facilities”</td>
<td>shall mean the facilities on SPD’s side of the Delivery Point for scheduling, transmitting and metering the electrical output in accordance with this Agreement and which shall include, without limitation, all other transmission lines and associated equipment, transformers, relay and switching equipment and protective devices, safety equipment and RTU, Data Transfer and Acquisition facilities for transmitting data subject to Article 7, the Metering System required for supply of power as per the terms of this Agreement;</td>
</tr>
<tr>
<td>“Invoice” or “Bill”</td>
<td>shall mean either a Monthly Bill / Supplementary Bill or a Monthly Invoice/ Supplementary Invoice raised by any of the Parties;</td>
</tr>
<tr>
<td>“Late Payment Surcharge”</td>
<td>shall have the meaning ascribed thereto in Article 10.3.3 of this Agreement;</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
</tr>
<tr>
<td>------</td>
<td>------------</td>
</tr>
<tr>
<td><strong>“Law”</strong></td>
<td>shall mean in relation to this Agreement, all laws including Electricity Laws in force in India and any statute, ordinance, regulation, notification or code, rule, or any interpretation of any of them by an Indian Governmental Instrumentality and having force of law and shall further include without limitation all applicable rules, regulations, orders, notifications by an Indian Governmental Instrumentality pursuant to or under any of them and shall include without limitation all rules, regulations, decisions and orders of the Appropriate Commissions;</td>
</tr>
<tr>
<td><strong>“Month”</strong></td>
<td>shall mean a period of thirty (30) days from (and excluding) the date of the event, where applicable, else a calendar month;</td>
</tr>
<tr>
<td><strong>“Operating Period”</strong></td>
<td>shall mean the period commencing from the Commercial Operation Date, until the last day of the Term of this Agreement or date of earlier termination of this Agreement in accordance with Article 2 of this Agreement;</td>
</tr>
<tr>
<td><strong>“Open Access Charges”</strong></td>
<td>shall mean the charges levied by the CTU/ RLDC / STU/ SLDC of the State wherein the Solar Power Project is located for the grant of Open Access as defined in Electricity Act 2003 and amended time to time;</td>
</tr>
<tr>
<td><strong>“OREDA”</strong></td>
<td>shall mean Odisha Renewable Energy Development Agency</td>
</tr>
<tr>
<td><strong>“Party” and “Parties”</strong></td>
<td>shall have the meaning ascribed thereto in the recital to this Agreement;</td>
</tr>
<tr>
<td><strong>“Performance Bank Guarantee”</strong></td>
<td>shall mean the irrevocable unconditional bank guarantee, submitted by the SPD to OREDA from a bank mentioned in RfS;</td>
</tr>
<tr>
<td><strong>“Power Project” or “Project”</strong></td>
<td>shall mean the solar power generation facility of Contracted Capacity of 6.0 MW, located at [Insert Village, Thesil, District &amp; State] having a separate boundary, control system, metering and separate points of injection into the grid at Delivery/Interconnection/ metering point at STU/CTU substation or in case of sharing of transmission lines, by separate injection at pooling point. This includes all units and auxiliaries such as water supply, treatment or storage facilities; bay/s for transmission system in the switchyard, dedicated transmission line up to the Delivery Point and all the other assets, buildings/structures, equipment, plant and machinery, facilities and related assets required for the efficient and economic operation of the power generation facility; whether completed or at any stage of development and construction or intended to be developed and constructed for the purpose of supply of power as per this Agreement;</td>
</tr>
<tr>
<td><strong>“Preliminary Default Notice”</strong></td>
<td>shall have the meaning ascribed thereto in Article 13 of this Agreement;</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
</tr>
<tr>
<td>-------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>“Project Financing / Arrangements Financial Closure”</td>
<td>shall mean arrangement of necessary funds by the Project Developer either by way of commitment of funds by the company from its internal resources and/or tie up of funds through a bank / financial institution by way of sanction of a loan or letter agreeing to finance;</td>
</tr>
</tbody>
</table>
| “Prudent Utility Practices”               | shall mean the practices, methods and standards that are generally accepted internationally from time to time by electric utilities for the purpose of ensuring the safe, efficient and economic design, construction, commissioning, operation and maintenance of power generation equipment and which practices, methods and standards shall be adjusted as necessary, to take account of: 
  a) operation and maintenance guidelines recommended by the manufacturers of the plant and equipment to be incorporated in the Power Project; 
  b) the requirements of Indian Law; and the physical conditions at the site of the Power Project; |
<p>| “RBI”                                     | shall mean the Reserve Bank of India;                                                                                                                                                                     |
| “RLDC”                                    | shall mean the relevant Regional Load Dispatch Centre established under Sub-section (1) of Section 27 of the Electricity Act, 2003;                                                                        |
| “Rupees”, “Rs.”, “₹”                      | shall mean Indian rupees, the lawful currency of India;                                                                                                                                                   |
| “Scheduled Commissioning Date”            | shall mean [Insert a date 4 months from the date of signing of this Agreement];                                                                                                                            |
| “SLDC”                                    | shall mean the centre established under Sub-section (1) of Section 31 of the Electricity Act 2003, relevant for the State(s) where the Delivery Point is located;                                              |
| “SLDC Charges”                            | shall mean the charges levied by the SLDC of the state wherein the Solar Power Project is located;                                                                                                          |
| “Solar Photovoltaic” or “Solar PV”        | shall mean the solar photovoltaic power project that uses sunlight for conversion into electricity and that is being set up by the SPD to provide Solar Power to HAL, KORAPUT as per the terms and conditions of this Agreement; |
| “Solar Power”                             | shall mean power generated from the Solar Photovoltaic Power Project;                                                                                                                                     |
| “State Transmission Utility” or “STU”     | shall mean the Board or the Government company notified by the respective State Government under Sub-section (1) of Section 39 of the Act;                                                              |
| “Tariff”                                  | shall have the same meaning as provided for in Article 9 of this Agreement;                                                                                                                               |
| “Tariff Payment”                          | shall mean the payments to be made under Monthly Bills as referred to in Article 10 and the relevant Supplementary Bills;                                                                                 |</p>
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>&quot;Termination Notice&quot;</td>
<td>shall mean the notice given by either Parties for termination of this Agreement in accordance with Article 13 of this Agreement;</td>
</tr>
<tr>
<td>&quot;Term of Agreement&quot;</td>
<td>shall have the meaning ascribed thereto in Article 2 of this Agreement;</td>
</tr>
<tr>
<td>&quot;Trading Margin&quot;</td>
<td>shall mean the margin as fixed by MNRE under this scheme on sale of solar power to State Utilities/Discoms/other Bulk Consumers;</td>
</tr>
<tr>
<td>&quot;Unit&quot;</td>
<td>shall mean the Solar PV Capacity (AC MW) commissioned as per provisions of the Part Commissioning as per the RfS document and this Agreement;</td>
</tr>
<tr>
<td>&quot;Unit Commercial Operation Date (UCOD)&quot;</td>
<td>shall mean the actual commercial operation date (i.e. the date of commissioning) of respective Unit(s) of the Power Project where upon the SPD starts injecting and scheduling power from the Power Project to the Delivery Point and availability / installation of all necessary arrangements / equipment including RTU for scheduling of power generated from the Project and transmission of data to the concerned authority as per applicable;</td>
</tr>
<tr>
<td>&quot;Week&quot;</td>
<td>shall mean a calendar week commencing from 00:00 hours of Monday, and ending at 24:00 hours of the following Sunday;</td>
</tr>
</tbody>
</table>

**Interpretation**

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

"Agreement" shall be construed as per this document;

An "Article", a "Recital", a "Schedule" and a “paragraph / clause" shall be construed as a reference to an Article, a Recital, a Schedule and a paragraph/clause respectively of this Agreement;

A “crore” means a reference to ten million (10,000,000) and a “lakh” means a reference to one tenth of a million (1,00,000);

An "encumbrance" shall be construed as a reference to a mortgage, charge, pledge, lien or other encumbrance securing any obligation of any person or any other type of preferential arrangement (including, without limitation, title transfer and retention arrangements) having a similar effect;

“Indebtedness” shall be construed so as to include any obligation (whether incurred
as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;

A "person" shall be construed as a reference to any person, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and a person shall be construed as including a reference to its successors, permitted transferees and permitted assigns in accordance with their respective interests;

"Rupee", "Rupees", “Rs” or rupee symbol “₹” shall denote Indian Rupees, the lawful currency of India;

The "winding-up", "dissolution", "insolvency", or "reorganization" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the Law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganization, dissolution, arrangement, protection or relief of debtors;

Words importing the singular shall include the plural and vice versa;

This Agreement itself or any other agreement or document shall be construed as a reference to this or to such other agreement or document as it may have been, or may from time to time be, amended, varied, novated, replaced or supplemented;

A Law shall be construed as a reference to such Law including its amendments or re-enactments from time to time;

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

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

The tables of contents and any headings or sub-headings in this Agreement have been inserted for ease of reference only and shall not affect the interpretation of this Agreement;

All interest, if applicable and payable under this Agreement, shall accrue from day to
day and be calculated on the basis of a year of three hundred and sixty five (365) days;

The words “hereof” or “herein”, if and when used in this Agreement shall mean a reference to this Agreement;

The terms “including” or “including without limitation” shall mean that any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;
2  ARTICLE 2: TERM OF AGREEMENT

2.1.  Effective Date

2.1.1  This Agreement shall come into effect from [Insert the Date of Execution of this Agreement] and such date shall be referred to as the Effective Date.

2.2.  Term of Agreement

2.2.1  This Agreement subject to Article 2.3 and 2.4 shall be valid for a term from the Effective Date until the Expiry Date. This Agreement may be extended for a further period at least one hundred eighty (180) days prior to the Expiry Date on agreed terms and conditions between the Solar Power Developer (SPD) and HAL, KORAPUT.

2.2.2

2.3.  Early Termination

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

2.3.2.  In the event of early termination of the Agreement pursuant to Article 13.1, HAL has the option to buy back the solar power plant installed at HAL, Koraput, in addition to the remedies available under the Article 13.3. However, in the event of early termination of the agreement pursuant to Article 13.2, HAL shall pay to the SPD the buy back price. The Parties herein have already agreed for the buyback price and the same is mentioned below:

[PLEASE INSERT THE DETAILS OF BUYBACK PRICE AS PER ANNEXURE I]

2.3.3.  The SPD agrees with HAL that, in the event of early termination and simultaneously upon receipt of the buyback price mentioned above, the SPD agrees to clear any loans or other encumbrance, if any, created on the solar power plant installed at HAL Koraput and agrees to execute all necessary documents for transfer the asset, without any encumbrance to HAL.

2.3.4.  In case of early termination of the Agreement pursuant to Article 13.1 and failure of SPD to continue to operate the Power Project pursuant to Article 13.3, the SPD shall be liable to pay liquidated damages as a genuine pre-estimated liquidated damages and not as a penalty as per the provisions mentioned in the RfS.
2.4 Expiry of the Agreement

Subject to Article 2.2 above, at the end of the Term of the Agreement, the SPD shall transfer the solar power plant to HAL without any cost, in full working condition along with all the related documents. The SPD undertakes to execute all the required documents for transferring the power plant to effectuate such transfer without any encumbrance to HAL.

2.5 Survival

2.5.1. The expiry or termination of this Agreement shall not affect any accrued rights, obligations and liabilities of the Parties under this Agreement, including the right to receive damages as per the terms of this Agreement, nor shall it affect the survival of any continuing obligations for which this Agreement provides, either expressly or by necessary implication, which are to survive after the Expiry Date or termination including those under Article 11 (Force Majeure), Article 13 (Events of Default and Termination), Article 14 (Liability and Indemnification), Article 16 (Governing Law and Dispute Resolution), Article 17 (Miscellaneous Provisions), and other Articles and Schedules of this Agreement which expressly or by their nature survive the Term or termination of this Agreement shall continue and survive any expiry or termination of this Agreement.
ARTICLE 3: CONDITIONS SUBSEQUENT

3.1 Satisfaction of conditions subsequent by the SPD

The SPD agrees and undertakes to duly perform and complete all of the following activities at SPD’s own risk and cost within three (3) months from the Effective Date, unless such completion is affected by any Force Majeure event, or if any of the activities is specifically waived in writing by HAL, KORAPUT:

a) The SPD shall obtain or apply (as applicable) for all Consents, Clearances and Permits required for construction of the Project as per the terms of this Agreement. The SPD shall also obtain all Consents, Clearances and Permits required for operation and supply of power to HAL, KORAPUT before Commissioning of the Project;

b) The SPD shall make Project financing arrangements and provide necessary certificates to HAL, KORAPUT in this regard;

c) The SPD shall make adequate arrangements to connect the Power Project switchyard with the Interconnection Facilities at the Delivery Point;

d) The SPD shall sign a Transmission Agreement with CTU/STU/ Transmission Utilities confirming the evacuation and connectivity of the CTU/STU / Transmission Utilities system up to the delivery point of SPD by the Scheduled Commissioning Date if necessary.

e) The SPD shall ensure leveling of the allotted site and clearing of land from debris / bushes / trees with necessary approvals, provided by HAL for commissioning the project.

f) The SPD shall fulfil the technical requirements according to criteria mentioned in the RfS document and produce the documentary evidence of the same.

g) The SPD shall make necessary arrangement required for water required for power project (water harvesting facility shall be planned).

h) SPD shall make necessary pathway for movement, maintenance of solar modules along the fencing and in rows of solar modules. Sufficient lighting arrangements shall be provided along the path way.

The SPD shall submit to HAL, KORAPUT the relevant documents as stated above, complying with the Conditions Subsequent, within three (3) months from the Effective Date.
3.2 **Consequences of non-fulfillment of conditions subsequent**

3.2.1 In case of a non-fulfillment of condition subsequent as enumerated in Article 3.1 above, OREDA shall revoke the Performance Bank Guarantee submitted by the SPD and transfer the proceedings to HAL, Koraput. HAL, Koraput shall have the right to terminate this Agreement by giving a notice to the SPD in writing of at least seven (7) days unless the delay is on account of delay by Government or Force Majeure. The termination of the Agreement shall take effect upon the expiry of the 7th day of the above notice.

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

3.3.3. In case of inability of the SPD to fulfil any one or more of the conditions specified in Article 3.1 due to any Force Majeure event(Article 4.5.2), the time period for fulfillment of the Conditions Subsequent as mentioned in Article 3.1, shall be extended for the period of such Force Majeure event.

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

3.3 **Performance Bank Guarantee**

3.3.1. The Performance Bank Guarantee having validity of Six (6) months from the date of signing this Agreement and of Rs. 180 lakh to be furnished under this Agreement shall be for guaranteeing the commencement of the supply of power up to the Contracted Capacity within the time specified.

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

3.3.3. If the SPD fails to commence supply of power from the Scheduled Commissioning Date specified in this Agreement or any further extension thereof granted by HAL, KORAPUT, subject to conditions mentioned in Article 4.5, OREDA shall encash the Performance Bank Guarantee without prejudice to the other rights of HAL,KORAPUT under this Agreement.
3.4 Return of Performance Bank Guarantee

3.4.1. Subject to Article 3.3, HAL, KORAPUT shall return / release the Performance Bank Guarantee within 30 days after the successful COD of the Project after taking into account any liquidated damages / penalties due to delays in commissioning as per provisions stipulated in this Agreement.

3.4.2. The return / release of the Performance Bank Guarantee shall be without prejudice to other rights of HAL, KORAPUT under this Agreement.
ARTICLE 4: CONSTRUCTION & DEVELOPMENT OF THE PROJECT

4.1 SPD’s Obligations

4.1.1. The SPD undertakes to be responsible, at SPD’s own cost and risk, for:

a) Obtaining all Consents, Clearances and Permits other than those obtained under Article 3.1 and maintaining all Consents, Clearances and Permits in full force and effect during the Term of this Agreement; and

b) Designing, constructing, erecting, commissioning, completing and testing the Power Project in accordance with the applicable Law, the Grid Code, the terms and conditions of this Agreement and Prudent Utility Practices; and

c) Construct a boundary with 3 feet high wall and 8 feet high fence all around the Solar PV power plant with suitable gate for access.

d) Safety and security of the solar power plant during the construction and post construction operational period. The SPD shall also provide sufficient CCTV cameras in consultation with HAL to monitor the movement of personnel including integrating the same with the existing network of CCTV cameras of HAL.

e) All associated land development works such as clearing of vegetation, leveling, civil works etc.

f) All necessary protection devices to protect the power plant from lightening, sudden surges in voltage and current and ensure safety of the grid to which the project is connected. The SPD shall also ensure protection of life and property likely to be endangered due to installation of the solar power plant.

g) Commencement of supply of power up to the Contracted Capacity to HAL, KORAPUT no later than the Scheduled Commissioning Date and continuance of the supply of power throughout the term of the Agreement;

h) Connecting the Power Project switchyard with the Interconnection Facilities at the Delivery Point; and

i) Owning the Power Project throughout the Term of Agreement free and clear of encumbrances, except those expressly permitted under Article 15;

j) Maintaining its controlling shareholding (controlling shareholding shall mean not less than 51% of the voting rights and paid-up share capital) prevalent at the time of signing of PPA in the Company/Consortium developing the project
up to a period of one (1) year after Commercial Operation Date. However transfer of controlling shareholding within the same Group Companies will be allowed with the permission of HAL,KORAPUT even before one year period from COD subject to the condition that the management control remains within the same Group Companies; and

k) Performance and fulfillment of all the obligations of the 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.

l) SPD warrants that it will comply with all the warranty conditions of the original equipment manufacturer from the date of acceptance of the equipment by the SPD, conform to the specifications and shall maintain the solar power plant as per the recommendations of the original equipment manufacturer.

m) SPD warrants and confirms that, at all time during the currency of the Agreement, it shall maintain the solar power plant in accordance with the recommendation of the respective OEMs.

n) SPD undertakes and confirms that, it shall impart training to HAL’s employees related to day-to-day operation and maintenance of solar power plant without any additional cost.

o) The SPD shall not cause any damages to the property of HAL during the installation of the solar power plant and also during the operation and maintenance of the same. In the event of any damage caused to property of HAL due to negligence or misconduct of the SPD, the same shall be rectified or replaced (as instructed by HAL) by the SPD at its own cost and expenses. The SPD confirms that, in the event of failure to adhere to the above, HAL shall have the right to withhold the payments due to the SPD until the defect is rectified.

p) Operation and maintenance of the Power Project in accordance with the provisions of this Agreement.

q) Unless otherwise agreed between the Parties, the SPD shall not carry out any modification of the Premises without the written consent of HAL. The SPD shall maintain general cleanliness of the area around the Power Project during the term of the Agreement.

r) 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:

i) make, or cause to be made, necessary applications to the relevant government agencies with such particulars and details, as may be required for obtaining Applicable Permits and obtain and keep in force and effect such Applicable Permits in conformity with the Applicable Laws;

ii) procure, as required, the appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes and systems used or incorporated into the Power Project;

iii) 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;

iv) ensure and procure that the SPD and its Contractors comply with all Applicable Permits and Applicable Laws in the performance by them of any of the SPD’s obligations under this Agreement;

v) take all necessary and reasonable safety precautions with respect to providing the installation work, solar power and operations during the term of the Agreement that shall comply with all applicable Laws pertaining to the health and safety of persons and real and personal property; and

vi) 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.

4.2 Information regarding Interconnection Facilities

a) The SPD shall be required to obtain all information with regard to the Interconnection Facilities necessary to enable it to design, install and operate Plant and all interconnecting apparatus/ equipment on the SPD’s side of the Delivery Point to enable delivery of electricity at the Delivery Point.

b) The transmission of power up to the point of interconnection where the metering is done for energy accounting shall be the responsibility of the SPD at his own cost. The maintenance of Transmission system up to the interconnection point shall be the responsibility of the SPD.
c) The arrangement of connectivity can be made by the SPD through a dedicated transmission line which the SPD may construct itself or get constructed by STU or any other agency. The entire cost of transmission including cost of construction of line, any other charges, losses etc. from the Project up to the Interconnection Point will be borne by the SPD. The SPD shall not be entitled to any deemed generation in case of any delay in connectivity to the Project.

d) All costs and charges including but not limited to the wheeling charges and losses up to the interconnect point associated with this arrangement will also be borne by the SPD.

4.3 Purchase and sale of Contracted Capacity

Subject to the terms and conditions of this Agreement, the SPD undertakes to sell only to HAL, KORAPUT and HAL subjected to clause 4.4 below, undertakes to pay Tariff for all the energy supplied at the Delivery Point corresponding to the Contracted Capacity.

4.4 Right to Contracted Capacity & Energy

a) HAL, KORAPUT, at any time during a Contract Year, shall not be obliged to Purchase any additional energy from the SPD beyond 10.4 Million kWh (MU). If for any Contract Year, it is found that the SPD has not been able to generate minimum energy of 8.04 Million kWh (MU) till the end of 10 years from the COD and minimum 6.30 Million kWh (MU) for the rest of the term of the Agreement, on account of reasons Solely attributable to the SPD, the non-compliance by SPD shall make the SPD liable to pay the compensation and shall duly pay such compensation to HAL, Koraput.

b) This will, however be relaxable by HAL, KORAPUT to the extent of non- availability of grid for evacuation, which is beyond the control of the developer. This compensation shall be applied to the amount of shortfall in generation during the Contract Year. This compensation shall be applied to the amount of shortfall in generation during the Contract Year. The compensation shall be equal to the excess tariff payable by HAL (prevailing tariff determined by the Odisha Electricity Regulatory Commission as applicable to HAL including all taxes) over and above the agreed tariff as per Article 9 of this Agreement. However, this compensation shall not be applicable in events of Force Majeure identified under PPA with HAL, KORAPUT affecting supply of solar power by SPD.
c) Notwithstanding Article 4.4.1, any excess generation over and above 10% of declared annual CUF, if not refused by HAL, shall be sold to HAL, KORAPUT only as per PPA tariff. While the SPD would be free to install DC solar field as per its design of required output, including its requirement of auxiliary consumption and to reconfigure and repower the Project from time to time during the term of the PPA, it will not be allowed to sell any excess power to any other entity other than HAL, KORAPUT (unless refused by HAL, KORAPUT). However, in case at any point of time, the peak of capacity reached is higher than the contracted capacity and causes disturbance in the system at the point where power is injected, the SPD will have to forego the excess generation and reduce the output to the rated capacity and shall also have to pay the penalty/charges (if applicable) as per applicable regulations / requirements / guidelines of CERC / SERC / SLDC or any other competent agency. However, this compensation shall not be applicable in events of Force Majeure identified under PPA with HAL affecting supply of solar power by SPD. However, the amount of shortfall in generation shall be adjusted, on account of non-availability of grid for power evacuation which is beyond the control of the SPD and / or occurrence of abnormally low Global Horizontal Irradiance (GHI) year (i.e. if the actual global solar irradiance in the year under consideration is less than 50% of average values of two (2) years of annual GHI as available from the nearest IMD/SRRA stations). For avoidance of any doubt, it is clarified that the extent of adjustment in CUF in case of non-availability of grid for evacuation which is beyond the control of SPD and / or abnormally low annual Global Horizontal Irradiance year and/or force majeure shall not qualify for revenue billing. Moreover, in case annual GHI is equal to or more than 50% of average value of two (2) years of annual GHI as available from the nearest IMD/SRRA stations, no adjustment shall be made in the annual CUF on account of abnormally low annual GHI year.

d) HAL, Koraput shall not be liable to pay for any energy produced and flown into the grid before COD.

4.5 Extensions of Time

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

   i. any HAL, KORAPUT Event of Default; or
   ii. Force Majeure Events affecting HAL, KORAPUT, or
   iii. Force Majeure Events affecting the SPD,
the Scheduled Commissioning Date and the Expiry Date shall be deferred for a reasonable period but not less than ‘day for day’ basis, to permit the SPD or HAL, KORAPUT through the use of due diligence, to overcome the effects of the Force Majeure Events affecting the SPD or HAL, KORAPUT, or till such time such Event of Default is rectified by HAL, KORAPUT.

b) In case of extension due to reasons specified in Article 4.5.a(ii) and (iii), and if such Force Majeure Event continues even after a maximum period of three (3) Months, any of the Parties may choose to terminate the Agreement as per the provisions of Article13.5.

b) If the Parties have not agreed, within thirty (30) days after the affected Party's performance has ceased to be affected by the relevant circumstance, on the time period by which the Scheduled Commissioning Date or the Expiry Date should be deferred, any Party may raise the Dispute to be resolved in accordance with Article16.

c) As a result of such extension, the Scheduled Commissioning Date and the Expiry Date newly determined shall be deemed to be the Scheduled Commissioning Date and the Expiry Date for the purposes of this Agreement.

d) Notwithstanding anything to the contrary contained in this Agreement, any extension of the Scheduled Commissioning Date arising due to any reason envisaged in this Agreement shall not be allowed beyond the date determined pursuant to Article 4.6.

4.6 Liquidated Damages for delay in commencement of supply of power to HAL, KORAPUT

If the SPD is unable to commence supply of power to HAL, KORAPUT by the Scheduled Commissioning Date other than for the reasons specified in Article 4.5.a, the SPD shall pay to HAL, KORAPUT, damages for the delay in such commencement of supply of power and making the Contracted Capacity available for dispatch by the Scheduled Commissioning Date as per the following:

a) Delay up to one (1) months – 1st art of the PBG amounting to Rs. 36 Lakhs shall be encashed by HAL, KORAPUT, proportionally calculated on per day basis for delay up to 1 month from the Scheduled Commissioning Date.

b) Delay of more than one (1) month and up to two (2) months: 2nd art of the
PBG amounting to Rs. 72 Laks shall be encashed by HAL, KORAPUT proportionally calculated on per day basis for delay up to another two months.

c) Delay of more than two (2) month and up to four (4) months: 3rd art of the PBG amounting to Rs. 72 Laks and EMD shall be encashed by HAL, KORAPUT proportionally calculated on per day basis.

d) In case commissioning of the project is delayed beyond 4 months from scheduled date of commissioning (scheduled COD), the project developer shall pay to OREDA the liquidated damages @ Rs 1.00 lakh per MW per day of delay.

e) Non-realization of the aforementioned liquidated damages or non-commissioning of the project within 150 days from scheduled COD will result in cancellation of the project and PPA regardless to the status of the project. In case of delay it will be incumbent upon the bidder to make all the payments/ penalty to HAL.

f) For the purpose of calculations for penalty, the month shall be considered consisting of 30 days

4.7 Acceptance/Performance Test

Prior to synchronization of the Power Project, the SPD shall be required to get the Project certified for the requisite acceptance/performance test as may be laid down by Central Electricity Authority or Chief Electrical Inspectorate, Govt. Of Odisha or agency identified by the central government to carry out testing and certification for the solar power projects. All the results of the performance test shall be made available to HAL. Any suggestion or recommendations by such test report shall be adhered by the SPD and shall furnish proof to HAL. The cost incurred in pursuance to such acceptance/performance test shall be borne by SPD.

4.8 Third Party Verification

a) The SPD shall be further required to provide entry to the site of the Power Project free of all encumbrances at all times during the Term of the Agreement to HAL, KORAPUT, OREDA and any third Party, if nominated, by HAL, KORAPUT or any Govt. agency for inspection and verification of the works being carried out by the SPD at the site of the Power Project. The SPD shall bear all the costs of Third Party verification.
b) The third party may verify the construction works/operation of the Power Project being carried out by the SPD and if it is found that the construction works/operation of the Power Project is not as per the Prudent Utility Practices, it may seek clarifications from SPD or require the works to be stopped or to comply with the instructions of such third party.

c) The third party may carry out checks for testing the CUF of the Power Project in accordance with Clause 4.4.a.

d) During the Term of this Agreement, the SPD shall undertake to conduct performance test or the third party verification on a yearly basis at its own cost and expenses and shall comply with the recommendation of such test. The SPD shall share the copies of such report, if any, with HAL.

4.9 HAL’s Obligations

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

ii. HAL shall make timely payments of Tariff to the SPD as per the procedure set out in Article 10.

iii. HAL shall provide the land within its estate area at Sunabeda, Koraput for the installation of the solar power plant and the access there to;

iv. HAL agrees to provide support to the SPD and undertake to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and the Applicable Laws, the following:

   a) 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 Applicable Permits required from any government agencies for implementation and operation of the Project;

   b) 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;

   c) act reasonably, while exercising its discretionary power under this Agreement; and

   d) support, cooperate with and facilitate the SPD in the implementation and operation of the Project in accordance with the provisions of this Agreement.

However HAL is not obligatory for the safety, security and wages for the employees/labours working under SPD and executing this project.
ARTICLE 5: SYNCHRONISATION, COMMISSIONING AND COMMERCIAL OPERATION

5.1 Synchronization, Commissioning and Commercial Operation

a) The SPD shall inform to OREDA & HAL, KORAPUT at least twenty (20) days advanced preliminary written notice and at least ten (10) days advanced final written notice, of the date on which it intends to synchronize the Power Project to the Grid System.

b) Subject to Article 5.1.a, the Power Project may be synchronized by the SPD to the Grid System when it meets all the connection conditions prescribed in applicable Grid Code then in effect and otherwise meets all other Indian legal requirements for synchronization to the Grid System.

c) The synchronization equipment shall be installed by the SPD at its generation facility of the Power Project at its own cost. The SPD shall synchronize its system with the Grid System only after the approval of synchronization scheme is granted by DISCOM/OPTCL in intimation to HAL or a third party nominated by HAL.

d) The SPD shall immediately after each synchronization/tripping of generator, inform HAL and all other concerned authorities in accordance with applicable Grid Code under intimation to HAL, KORAPUT. In addition the SPD will inject in-firm power to grid time to time to carry out operational/functional test prior to commercial operation.

e) The SPD shall commission the Project as detailed in “RfS” within three (3) Months of the date of signing of PPA.
ARTICLE 6: DISPATCH AND SCHEDULING

6.1 Dispatch and Scheduling

a) The SPD shall be required to Schedule its power as per the applicable regulations / requirements / guidelines of CERC / OERC / SLDC / RLDC or any other competent agency and same being recognized by the SLDC or any other competent authority / agency as per applicable regulation / law / direction and maintain compliance to the applicable Codes / Grid Code requirements and directions, if any, as specified by concerned SLDC/RLDC from time to time. Any deviation from the Schedule will attract the provisions of applicable regulation / guidelines / directions and any financial implication on account of this shall be on the account of the SPD.
ARTICLE 7: METERING

7.1 Meters

a) For installation of Meters, Meter testing, Meter calibration and Meter reading and all matters incidental thereto, the SPD and HAL, KORAPUT shall follow and be bound by the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, the Grid Code, as amended and revised from time to time.

b) The SPD shall bear all costs pertaining to installation, testing, calibration, maintenance, renewal and repair of meters at SPD’s side of Delivery Point.

c) In addition to ensuring compliance of the applicable codes, the SPD shall install Main & Check meters with common CT, PT and one standby meter with separate CT, PT (different from the CT, PT for main and check meter but having identical specification) at the Delivery Point. All the meters must be ABT compliant.

d) Measurement of Electrical Energy shall be done at the Interconnection point jointly by the parties.

e) The scope of net metering and the suitable arrangement in accordance with the DISCOM/OPTCL shall be under the scope of SPD.

7.2 Reporting of Metered Data and Parameters

a) The grid connected solar PV power plants will install necessary equipment for regular monitoring of solar irradiance (including GHI, DHI and solar radiation in the module plane), ambient air temperature, wind speed and other weather parameters and simultaneously for monitoring of the electric power (both DC and AC) generated from the Project.

b) Online arrangement would have to be made by the solar power developer at its own cost for submission of above data regularly for the entire period of this Power Purchase Agreement to the SLDC, HAL,KORAPUT and the concerned Ministry or concerned agency as per applicable regulation / directions. Suitable arrangement should be made for SCADA facility. SPD shall built adequate capacity RCC roof building within the premises of SPV power project site for housing the inverters, SCADA, metering units and utility room etc.

c) Reports on above parameters on monthly basis shall be submitted by the solar power developer to HAL, KORAPUT for entire period of PPA.
ARTICLE 8: INSURANCES

8.1 Insurance

a) The SPD shall effect and maintain or cause to be effected and maintained, at its own cost and expense, throughout the Term of PPA, Insurances against such risks, with such deductibles and with such endorsements and co-insured(s), which the Prudent Utility Practices would ordinarily merit maintenance of and as required under the Financing Agreements.

8.2 Application of Insurance Proceeds

a) Save as expressly provided in this Agreement or the Insurances, the proceeds of any insurance claim made due to loss or damage to the Power Project or any part of the Power Project shall be first applied to reinstatement, replacement or renewal of such loss or damage.

b) If a Force Majeure Event renders the Power Project no longer economically and technically viable and the insurers under the Insurances make payment on a “total loss” or equivalent basis, HAL,KORAPUT shall have no claim on such proceeds of such Insurance as per provisions.

8.3 Effect on liability of HAL, KORAPUT

a) Notwithstanding any liability or obligation that may arise under this Agreement, any loss, damage, liability, payment, obligation or expense which is insured or not or for which the SPD can claim compensation, under any Insurance shall not be charged to or payable by HAL, KORAPUT.
ARTICLE 9: APPLICABLE TARIFF

a) The SPD shall be entitled to receive the Tariff of Rs. [Insert applicable tariff]/ kWh, fixed for the entire Term of the PPA with effect from the COD.

b) Any energy produced and flowing into the grid before COD shall not be billed to HAL, KORAPUT.
ARTICLE 10: BILLING AND PAYMENT

10.1 General

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

10.2 Delivery and Content of Monthly Bills/Supplementary Bills

a) The SPD shall issue to HAL, KORAPUT a signed Monthly Bill/Supplementary Bill for the immediately preceding Month. Each Monthly Bill shall include all charges as per this Agreement for the energy supplied for the relevant Month based on Joint Meter reading. The Monthly Bill amount shall be the product of the energy supplied and the applicable Tariff.

10.3 Payment of Monthly Bills

a) HAL, KORAPUT shall pay the amount payable under the Monthly Bill/Supplementary Bill by the Due Date to such account of the SPD, as shall have been previously notified by the SPD as below.

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

   i) deductions required by the Law; and

   ii) amounts claimed by HAL, KORAPUT, if any, from the SPD, through an invoice to be payable by the SPD, and not disputed by the SPD within fifteen (15) days of receipt of the said Invoice and such deduction or set-off shall be made to the extent of the amounts not disputed. It is clarified that HAL, KORAPUT shall be entitled to claim any set off or deduction under this Article, after expiry of the said fifteen (15) Days period.

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

10.4 Late Payment Surcharge

a) In the event of delay in payment of a Monthly Bill by HAL, KORAPUT beyond thirty (30) days of its Due Date, a Late Payment Surcharge shall be payable to the SPD at the rate of 1.25% per month on the outstanding amount calculated on a day to day basis. The Late Payment Surcharge shall be claimed by the SPD through the Supplementary Bill.

b) In the event of early Commissioning of the Project the payment for the power fed to the grid will be accounted from the date of COD.

10.5 Disputed Bill

a) If the Party does not dispute a Monthly Bill or a Supplementary Bill raised by the other Party by the Due Date, such Bill shall be taken as conclusive.

b) If the HAL, KORAPUT disputes the amount payable under a Monthly Bill or a Supplementary Bill, as the case may be, it shall pay 50% of the disputed amount and it shall within fifteen (15) days of receiving such Bill, issue a notice (the "Bill Dispute Notice") to the invoicing Party setting out:

i) the details of the disputed amount;

ii) its estimate of what the correct amount should be; and

iii) all written material in support of its claim.

c) If the SPD agrees to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.5.b, the SPD shall revise such Bill and present along with the next Monthly Bill. In such a case excess amount shall be refunded along with interest at the same rate as Late Payment Surcharge, which shall be applied from the date on which such excess payment was made by the disputing Party to the invoicing Party and up to and including the date on which such payment has been received as refund.
d) If the SPD does not agree to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.5.b, it shall, within fifteen (15) days of receiving the Bill Dispute Notice, furnish a notice (Bill Disagreement Notice) to the HAL, KORAPUT 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.

e) Upon receipt of the Bill Disagreement Notice by the HAL, KORAPUT under Article 10.5.d, authorized representative(s) of the HAL, KORAPUT and SPD shall meet and make best endeavours to amicably resolve such dispute within fifteen (15) days of receipt of the Bill Disagreement Notice.

f) If the Parties do not amicably resolve the Dispute within fifteen (15) days of receipt of Bill Disagreement Notice pursuant to Article 10.5.d, the matter shall be referred to Dispute resolution in accordance with Article 16.

g) For the avoidance of doubt, it is clarified that despite a Dispute regarding an Invoice, HAL, KORAPUT shall, without prejudice to its right to Dispute, be under an obligation to make payment of 50% of the Disputed Amount in the Monthly Bill.

10.6 Quarterly and Annual Reconciliation

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

b) The Parties, therefore, agree that as soon as all such data in respect of any quarter of a Contract Year or a full Contract Year as the case may be has been finally verified and adjusted, the SPD and HAL, KORAPUT shall jointly sign such reconciliation
statement. Within fifteen (15) days of signing of a reconciliation statement, the SPD shall make appropriate adjustments in the next Monthly Bill. Late Payment Surcharge/ interest shall be payable in such a case from the date on which such payment had been made to the invoicing Party or the date on which any payment was originally due, as may be applicable. Any Dispute with regard to the above reconciliation shall be dealt with in accordance with the provisions of Article 16.

10.7 Payment of Supplementary Bill

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

i) Adjustments required by Joint Meter Reading (if applicable); or

ii) Change in Law as provided in Article 12, or and such Supplementary Bill shall be paid by the other Party.

b) HAL, KORAPUT shall remit all amounts due under a Supplementary Bill raised by the SPD to the SPD’s Designated Account by the Due Date. If any claim is being raised pursuant to the Article 10.5.d HAL, KORAPUT shall make adjustment in the payment made to the SPD.

c) In the event of delay in payment of a Supplementary Bill by either Party beyond its Due Date, a Late Payment Surcharge shall be payable at the same terms applicable to the Monthly Bill in Article 10.4.
ARTICLE 11: FORCE MAJEURE

11.1 Definitions

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

11.2 Affected Party

An affected Party means HAL, KORAPUT or the SPD whose performance has been affected by an event of Force Majeure.

11.3 Force Majeure

A ‘Force Majeure’ means any event or circumstance or combination of events those stated below that wholly or partly prevents or unavoidably delays an Affected Party in the performance of its obligations under this Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the Affected Party and could not have been avoided if the Affected Party had taken reasonable care or complied with Prudent Utility Practices:

a) Act of God, including, but not limited to lightning, drought, fire and explosion (to the extent originating from a source external to the site), earthquake, volcanic eruption, landslide, flood, cyclone, typhoon or tornado if and only if it is declared / notified by the competent state / central authority / agency (as applicable);

b) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action if and only if it is declared / notified by the competent state / central authority / agency (as applicable); or

c) radioactive contamination or ionising radiation originating from a source in India or resulting from another Force Majeure Event mentioned above excluding circumstances where the source or cause of contamination or radiation is brought or has been brought into or near the Power Project by the Affected Party or those employed or engaged by the Affected Party.
11.4 Force Majeure Exclusions

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

a) Unavailability, late delivery, or changes in cost of the plant, machinery, equipment, materials, spare parts or consumables for the Power Project;
b) Delay in the performance of any contractor, sub-contractor or their agents;
c) Non-performance resulting from normal wear and tear typically experienced in power generation materials and equipment;
d) Strikes at the facilities of the Affected Party;
c) Insufficiency of finances or funds or the agreement becoming onerous to perform; and
f) Non-performance caused by, or, connected with the Affected Party’s:
   i) Negligent or intentional acts, errors or omissions;
   ii) Failure to comply with an Indian Law; or
   iii) Breach of, or default under this Agreement.

11.5 Notification of Force Majeure Event

a) 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.

b) 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.
c) The Affected Party shall give notice to the other Party of (i) the cessation of the relevant event of Force Majeure; and (ii) the cessation of the effects of such event of Force Majeure on the performance of its rights or obligations under this Agreement, as soon as practicable after becoming aware of each of these cessations.

11.6 Duty to Perform and Duty to Mitigate

To the extent not prevented by a Force Majeure Event pursuant to Article 11.3, the Affected Party shall continue to perform its obligations pursuant to this Agreement. The Affected Party shall use its reasonable efforts to mitigate the effect of any Force Majeure Event as soon as practicable.

11.7 Available Relief for a Force Majeure Event

Subject to this Article 11:

a) no Party shall be in breach of its obligations pursuant to this Agreement except to the extent that the performance of its obligations was prevented, hindered or delayed due to a Force Majeure Event;

b) every Party shall be entitled to claim relief in relation to a Force Majeure Event in regard to its obligations, including but not limited to those specified under Article 4.5;

c) For avoidance of doubt, neither Party’s obligation to make payments of money due and payable prior to occurrence of Force Majeure events under this Agreement shall be suspended or excused due to the occurrence of a Force Majeure Event in respect of such Party.

d) Provided that no payments shall be made by either Party affected by a Force Majeure Event for the period of such event on account of its inability to perform its obligations due to such Force Majeure Events
ARTICLE 12: CHANGE IN LAW

12.1 Definitions

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

"Change in Law" means the occurrence of any of the following events after the Effective Date resulting into any additional recurring/ non-recurring expenditure by the SPD or any income to the SPD:

a) The enactment, coming into effect, adoption, promulgation, amendment, modification or repeal (without re-enactment or consolidation) in India, of any Law, including rules and regulations framed pursuant to such Law;

b) a change in the interpretation or application of any Law by any Indian Governmental Instrumentality having the legal power to interpret or apply such Law, or any Competent Court of Law;

c) the imposition of a requirement for obtaining any Consents, Clearances and Permits which was not required earlier;

d) a change in the terms and conditions prescribed for obtaining any Consents, Clearances and Permits or the inclusion of any new terms or conditions for obtaining such Consents, Clearances and Permits; except due to any default of the SPD;

e) any change in tax or introduction of any tax made applicable for supply of power by the SPD as per the terms of this Agreement. Any benefit due to change in tax on the sale of solar energy shall be passed on to HAL, Koraput.

f) any benefit arising due to change in above para (a) to (e) shall be passed on to HAL but shall not include (i) any change in any withholding tax on income or dividends distributed to the shareholders of the SPD, or (ii) any change on account of regulatory measures by the Appropriate Commission.

12.2 Relief for Change in Law

a) The aggrieved Party shall be required to approach HAL for seeking approval of Change in Law.

b) The decision of HAL, Koraput to acknowledge a Change in Law and the date from which it will become effective, provide relief for the same, shall be final and governing on both the Parties.
ARTICLE 13: EVENTS OF DEFAULT AND TERMINATION

13.1 SPD Event of Default

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

(i) the failure to commence supply of power to HAL, KORAPUT up to the Contracted Capacity, by the end of the period specified in Article 4, or if
   a) the SPD assigns, mortgages or charges or purports to assign, mortgage or charge any of its assets or rights related to the Power Project in contravention of the provisions of this Agreement
   b) The SPD transfers or novates any of its rights and/ or obligations under this agreement, in a manner contrary to the provisions of this Agreement; except where such transfer.
      • is in pursuance of a Law; and does not affect the ability of the transferee to perform, and such transferee has the financial capability to perform, its obligations under this Agreement or
      • is to a transferee who assumes such obligations under this Agreement and the Agreement remains effective with respect to the transferee;

(ii) if (a) the SPD becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of thirty (30) days, or (b) any winding up or bankruptcy or insolvency order is passed against the SPD, or (c) the SPD goes into liquidation or dissolution or has a receiver or any similar officer appointed over all or substantially all of its assets or official liquidator is appointed to manage its affairs, pursuant to Law, provided that a dissolution or liquidation of the SPD will not be a SPD Event of Default if such dissolution or liquidation is for the purpose of a merger, consolidation or reorganization and where the resulting company retains Credit worthiness similar to the SPD and expressly assumes all obligations of the SPD under this Agreement and is in a position to perform them; or

(iii) the SPD repudiates this Agreement and does not rectify such breach within a period of thirty (30) days from a notice from HAL, KORAPUT in this regard; or
(iv) if SPD fails to fulfill any obligation or discharge any duty imposed on it, under this Agreement; or
(v) change in controlling shareholding before the specified time frame as mentioned in Article 4.1.1 of this Agreement; or
(vi) occurrence of any other event which is specified in this Agreement to be a material breach/ default of the SPD.

13.2 HAL, KORAPUT Event of Default

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

(i) HAL, KORAPUT fails to pay (with respect to a Monthly Bill or a Supplementary Bill), subject to Article 10.5, for a period of ninety (90) days after the Due Date and the SPD is unable to recover the amount outstanding to the SPD.

(ii) HAL, KORAPUT repudiates this Agreement and does not rectify such breach even within a period of thirty (30) days from a notice from the SPD in this regard; or

(iii) except where due to any SPD’s failure to comply with its obligations, HAL, KORAPUT is in material breach of any of its obligations pursuant to this Agreement, and such material breach is not rectified by HAL, KORAPUT within thirty (30) days of receipt of notice in this regard from the SPD to HAL, KORAPUT; or if

- HAL, KORAPUT becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of thirty (30) days, or
- any winding up or bankruptcy or insolvency order is passed against HAL, KORAPUT or
- HAL, KORAPUT goes into liquidation or dissolution or a receiver or any similar officer is appointed over all or substantially all of its assets or official liquidator is appointed to manage its affairs, pursuant to Law, Provided that it shall not constitute a HAL, KORAPUT Event of Default, where such dissolution or liquidation of HAL, KORAPUT or HAL, KORAPUT is for the purpose of a merger, consolidation or reorganization and where the resulting entity has the financial standing to perform its obligations under this Agreement and has
creditworthiness similar to HAL, KORAPUT and expressly assumes all obligations of HAL, KORAPUT and is in a position to perform them; or;

(iv) Occurrence of any other event which is specified in this Agreement to be a material breach or default of HAL, KORAPUT.

13.3 Procedure for cases of SPD Event of Default

a) Upon the occurrence and continuation of any SPD Event of Default under Article 13.1, HAL, KORAPUT shall have the right to deliver to the SPD, with a copy to the representative of the lenders to the SPD with whom the SPD has executed the Financing Agreements, a notice stating its intention to terminate this Agreement (HAL, KORAPUT Preliminary Default Notice), which shall specify in reasonable detail, the circumstances giving rise to the issue of such notice.

b) Within a period of seven (7) days following the expiry of the Consultation Period unless the Parties shall have otherwise agreed to the contrary or the SPD Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, HAL, KORAPUT may terminate this Agreement by giving a written Termination Notice of thirty (30) days to the SPD.

c) Subject to the terms of this Agreement, upon occurrence of a SPD Event of Default under this Agreement, the lenders in consultation with HAL, KORAPUT may exercise their rights, if any, under Financing Agreements, to seek substitution of the SPD by a selectee for the residual period of the Agreement, for the purpose of securing the payments of the total debt amount from the SPD and performing the obligations of the SPD.

d) Provided that any substitution under this Agreement can only be made with the condition that the selectee meets the eligibility requirements of Request for Selection (RfS) issued by OREDA and accepts and honours all the terms and condition of this PPA.

e) The lenders in consultation with HAL,KORAPUT may seek to exercise right of substitution under Article 13.3.c by an amendment or novation of the PPA in favour of the selectee. The SPD shall cooperate with HAL,KORAPUT to carry out such substitution and shall have the duty and obligation to continue to operate the Power Project in accordance with this PPA till such time as the substitution is finalized.

f) In case the lending institution exercises the right to step in or take over the Project. HAL,KORAPUT will also have right to step in along with the lending institution.
13.4  Procedure for cases of HAL, KORAPUT Event of Default

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

b) Following the issue of a SPD Preliminary Default Notice, the Consultation Period of sixty (60) days or such longer period as the Parties may agree, shall apply and it shall be the responsibility of the Parties to discuss as to what steps shall be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.

c) During the Consultation Period, the Parties shall continue to perform their respective obligations under this Agreement.

d) After a period of seven (7) days following the expiry of the Consultation Period and unless the Parties shall have otherwise agreed to the contrary or HAL, KORAPUT Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, this Agreement may be terminated by the SPD.

13.5  Termination due to Force Majeure

If the Force Majeure Event or its effects continue to be present beyond the period mentioned, either Party shall have the right to cause termination of the Agreement. In such an event, this Agreement shall terminate on the date of such Termination Notice.
ARTICLE 14: LIABILITY AND INDEMNIFICATION

14.1  Indemnity

14.1.1. The SPD shall indemnify, defend and hold HAL, KORAPUT harmless against:

a) any and all third party claims against HAL, KORAPUT for any loss of or damage to property of such third party, or death or injury to such third party, arising out of a breach by the SPD of any of its obligations under this Agreement; and

b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest actually suffered or incurred by HAL, KORAPUT from third party claims arising by reason of a breach by the SPD of any of its obligations under this Agreement, (provided that this Article 14 shall not apply to such breaches by the SPD, for which specific remedies have been provided for under this Agreement)

c) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest actually suffered or incurred by HAL arising out of the claims by contract laborers employed by SPD. SPD shall be the Principal Employer in respect to such contract laborers and SPD shall comply with all applicable labor laws; and

d) all claims for (i) bodily injuries, including death, or damages to property, as well as any indirect or incidental cost, losses or damages, caused by the SPD or its employees in connection with the performance of this Agreement or by his Power Plant, or (ii) any consequential damages and/or any economic loss caused directly or indirectly by SPD, its employees or its Power Plant.

14.1.2. HAL shall indemnify, defend and hold the SPD harmless against:

a) any and all third party claims against the SPD, for any loss of or damage to property of such third party, or death or injury to such third party, arising out of a breach by HAL of any of their obligations under this Agreement; and

b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest ('Indemnifiable Losses') actually suffered or incurred by the SPD from third party claims arising by reason of a breach by HAL of any of its obligations.
14.2 Procedure for claiming Indemnity

Third party claims

a. Where the Indemnified Party is entitled to indemnification from the Indemnifying Party pursuant to Article 14.1.1(a) or 14.1.2(a), the Indemnified Party shall promptly notify the Indemnifying Party of such claim referred to in Article 14.1.1(a) or 14.1.2(a) in respect of which it is entitled to be indemnified. Such notice shall be given as soon as reasonably practicable after the Indemnified Party becomes aware of such claim. The Indemnifying Party shall be liable to settle the indemnification claim within thirty (30) days of receipt of the above notice. Provided however that, if:

i) the Parties choose to refer the dispute before the Arbitrator in accordance with Article 16.3; and

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

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

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

Where an Indemnified Party is entitled to Indemnifiable Losses from the Indemnifying Party pursuant to Article 14.1.1(b) or 14.1.2(b), the Indemnified Party shall promptly notify the Indemnifying Party of the Indemnifiable Losses actually incurred by the Indemnified Party. The Indemnifiable Losses shall be reimbursed by the Indemnifying Party within thirty (30) days of receipt of the notice seeking Indemnifiable Losses by the Indemnified Party. In case of non-payment of such losses after a valid notice under this Article 14, such event shall constitute a payment default under Article 13.

14.4 **Limitation on Liability**

a) Except as expressly provided in this Agreement, neither the SPD nor HAL nor its/their respective officers, directors, agents, employees or affiliates (or their officers, directors, agents or employees), shall be liable or responsible to the other Party or its affiliates, officers, directors, agents, employees, successors or permitted assigns or their respective insurers for incidental, indirect or consequential damages, connected with or resulting from performance or non-performance of this Agreement, or anything done in connection herewith, including claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under this Agreement), any increased expense of, reduction in or loss of power generation or equipment used therefore, irrespective of whether such claims are based upon breach of warranty, tort (including negligence, whether of the SPD or others), strict liability, contract, breach of statutory duty, operation of law or otherwise.

b) HAL, KORAPUT shall have no recourse against any officer, director or shareholder of the SPD or any Affiliate of the SPD or any of its officers, directors or shareholders for such claims excluded under this Article. The SPD shall have no recourse against any officer, director or shareholder of HAL, KORAPUT, or any affiliate of HAL, KORAPUT or any of its officers, directors or shareholders for such claims excluded under this Article.

14.5 **Duty to Mitigate**

The Parties shall endeavour to take all reasonable steps so as mitigate any loss or damage which has occurred under this Article 14.
ARTICLE 15: ASSIGNMENTS AND CHARGES

15.1 Assignments

This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns. This Agreement shall not be assigned by any Party other than by mutual consent between the Parties to be evidenced in writing. Provided that, HAL, KORAPUT shall permit assignment of any of SPDs rights and obligations under this Agreement in favour of the lenders to the SPD, if required under the Financing Agreements.

Provided that, such consent shall not be withheld by the SPD if HAL, KORAPUT seeks to transfer to any affiliate all of its rights and obligations under this Agreement. Provided further that any successor(s) or permitted assign(s) identified after mutual agreement between the Parties may be required to execute a new agreement on the same terms and conditions as are included in this Agreement.

15.2 Permitted charges

SPD shall not create or permit to subsist any encumbrance over all or any of its rights and benefits under this Agreement, other than as set forth in Article 15.1.
ARTICLE 16: GOVERNING LAW AND DISPUTE RESOLUTION

16.1 Governing Law

This Agreement shall be governed by and construed in accordance with the Laws of India. Any legal proceedings in respect of any matters, claims or disputes under this Agreement shall be as per Arbitration and Conciliation Act, 1996.

16.2 Amicable Settlement and Dispute Resolution

Amicable Settlement

(i) Either Party is entitled to raise any claim, dispute or difference of whatever nature arising under, out of or in connection with this Agreement ("Dispute") by giving a written notice (Dispute Notice) to the other Party, which shall contain:
   (a) a description of the Dispute;
   (b) the grounds for such Dispute; and
   (c) all written material in support of its claim.

(ii) Within thirty (30) days of issue of Dispute Notice by any Party pursuant to Article 16.2.1(i) Both Parties shall endeavour and make all efforts to amicably settle the Dispute.

(iii) If the Parties fail to resolve the Dispute amicably within thirty (30) days from the later of the dates mentioned in this Article 16.2.1 (ii), the Dispute shall be referred for dispute resolution in accordance with Article 16.3.

16.3 Dispute Resolution

16.3.1 Dispute Resolution through Arbitration Where any Dispute arises from a claim made by any Party under this agreement, such Dispute shall be resolved by arbitration under the Indian Arbitration and Conciliation Act, 1996 as under, provided not settled amicably as per Article 16.2.

   i) The Arbitration Tribunal shall consist of three (3) Arbitrators. Each party shall appoint one Arbitrator within 30 days of the receipt of request for settlement of dispute by Arbitration. The two appointed Arbitrators shall within 30 days of their appointment, appoint a third Arbitrator who shall act as presiding Arbitrator. In case the party fails to appoint an Arbitrator within 30 days from the date of receipt of request or the two appointed Arbitrator fails to agree on third Arbitrator within 30 days of their
appointment, the appointment of Arbitrator, as the case may be, shall be made in accordance with the Indian Arbitration and Conciliation Act, 1996.

ii) The place of arbitration shall be Koraput. The language of the arbitration shall be English.

iii) The Arbitration Tribunal’s award shall be substantiated in writing. The Arbitration Tribunal shall also decide on the costs of the arbitration proceedings and the allocation thereof.

iv) The provisions of this Article shall survive the termination of this PPA for any reason whatsoever.

v) The award shall be of majority decision. If there is no majority, the award will be given by the presiding Arbitrator.

vi) HAL shall be entitled to co-opt the lenders (if any) as a supporting party in such arbitration proceedings.

16.4 Parties to Perform Obligations

16.4.1 Notwithstanding the existence of any Dispute and difference referred to the Appropriate Commission or the Arbitration Tribunal as provided in Article 16.3 and save as the Central Commission or the Arbitration Tribunal may otherwise direct by a final or interim order, the Parties hereto shall continue to perform their respective obligations (which are not in dispute) under this Agreement.
ARTICLE 17: REPRESENTATIONS AND WARRANTIES

17.1 Representations and warranties of the SPD

a) it is duly organized, validly existing and in good standing under the laws of India;
b) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
c) it has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorize the execution, delivery and performance of this Agreement;
d) it has the financial standing and capacity to undertake the Project;
e) this Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
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 the SPD’s Memorandum and Articles of Association or any Laws or any covenant, agreement, understanding, decree or order to which it is a party or by which it or any of its properties or assets are bound or affected;
g) there are no actions, suits, proceedings or investigations pending or to the SPD’s 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 constitute SPD Event of Default or which individually or in the aggregate may result in Material Adverse Effect;
h) 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 Agency which may result in Material Adverse Effect;
i) it has complied with all Laws 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 Material Adverse Effect;
j) no representation or warranty by the SPD contained herein or in any other document furnished by it to HAL or to any Government Agency in relation to Permits contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading; and
k) Without prejudice to any express provision contained in this Agreement, 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 Project, and the information provided by HAL, and has determined to its satisfaction the nature and extent of risks and hazards as are likely to arise or may be faced by the SPD in the course of performance of its obligations hereunder. The SPD also acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth above and hereby confirms that HAL shall not be liable for the same in any manner whatsoever to the SPD.

1) The SPD or SPDs’ agents or representatives have visited, inspected, familiar with and satisfied with the premises, its physical condition, roads, access rights, utilities, topographical conditions, except for unusual or unknown surface or subsurface conditions, or unusual or unknown conditions, and have performed all reasonable investigations necessary to determine that the project site is suitable for the construction /modification and installation of the solar power plant, and are familiar with the local and other conditions which may be material to SPDs’ performance of its obligations under this Agreement.

m) It has the requisite skill, knowledge, experience, expertise, infrastructure and capability to carry out the scope of services and also has trained and experienced persons having requisite skills, knowledge, experience, and expertise to perform the functions, operation and maintenance service, in terms of this Agreement.

17.2 Representations and Warranties of HAL

HAL represents and warrants to the SPD that:

a) HAL has full power and authority to enter into this Agreement and has taken all necessary action to authorise the execution, delivery and performance of this Agreement; and

b) This Agreement constitutes HAL’s legal, valid and binding obligation enforceable against it in accordance with the terms hereof.

17.3 Obligation to Notify Change

In the event that any of the representations or warranties made/given by a Party ceases to be true or stands changed, the Party who had made such representation or given such warranty shall promptly notify the other of the same and where reasonably possible, prior consent for such change shall be taken from the other party.
ARTICLE 18: MISCELLANEOUS PROVISIONS

18.1 Amendment

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

18.2 Third Party Beneficiaries

This Agreement is solely for the benefit of the Parties and their respective successors and permitted assigns and shall not be construed as creating any duty, standard of care or any liability to, any person not a party to this Agreement.

18.3 Waiver

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

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

18.4 Confidentiality

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

a) to their professional advisors;

b) to their officers, contractors, employees, agents or representatives, financiers, who need to have access to such information for the proper performance of their activities; or

c) disclosures required under Law without the prior written consent of the other Party.

18.5 Severability

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

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

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

Address:
Attention:
Email:
Fax. No.:
Telephone No.:

If to HAL, KORAPUT, all notices or communications must be delivered personally or by registered post or facsimile or any other mode duly acknowledged to the address(es) below:

Address: Hindustan Aeronautics Limited, Koraput Division
Attention: Dy Gen Manager (Services)
Email: nandish@hal-india.com
Telephone No. 06853-222343

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

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

18.7 Language

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

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

18.8 Restriction of Shareholders/ Owners’ Liability

Parties expressly agree and acknowledge that none of the shareholders of the Parties hereto
shall be liable to the other Parties for any of the contractual obligations of the concerned Party
under this Agreement.

18.9 Taxes and Duties

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

b) HAL, KORAPUT shall be indemnified and held harmless by the SPD against any claims
that may be made against HAL, KORAPUT in relation to the matters set out in Article
18.9.a.

c) HAL, KORAPUT shall not be liable for any payment of, taxes, duties, levies, cess
whatsoever for discharging any obligation of the SPD by HAL, KORAPUT on behalf of
SPD.

18.10 Independent Entity

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

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

18.11 Compliance with Law

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

18.12 Notice of Damage or Emergency

The SPD shall-

(i) Promptly notify HAL if it becomes aware of any damage to or loss of the use of the Power Project or that could reasonably be expected to adversely affect the Power Project,

(ii) Immediately notify HAL once it becomes aware of any event or circumstances that poses an imminent risk to human health, the environment, the Power Project or Premises.

18.13 Goodwill and Publicity

Neither party shall use any trade name, service mark nor trademark of the other Party in any promotional or advertising material without the prior written consent of the other Party, the parties shall co-ordinate and cooperate with each other when making public announcements related to the execution and existence of this Agreement, and each Party shall have the right to promptly review, comment upon and approve any publicity materials, press releases and other public statements by the other Party that refer to, or that describe any aspect of, this Agreement; provided that no such releases or their public statements shall be made by either Party without the prior written consent of the other Party. Without limiting the generality of the foregoing and whether or not the consent of the other Party is required to obtained, all public statements must accurately reflect the rights and obligations of the Parties under this Agreement.

18.14 Entire Agreement
This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter of this Agreement and supersedes all prior agreements and undertakings, written or oral, with respect to the subject matter hereof except as otherwise expressly provided herein.

18.15 Counterparts

This Agreement may be executed in two counterparts, each of which, when executed and delivered, shall constitute an original of this Agreement.

18.16 Immunity to Government of India

It is understood and agreed that the Government of India is not a party to this Agreement and has no liabilities, obligations or rights hereunder. It is expressly understood and agreed that HAL is an independent legal entity with power and authority to enter into contracts solely in its own behalf under the applicable Laws of India and General Principles of Contract Law. The SPD shall agree, acknowledge and understand that HAL is not an agent, representative or delegate of the Government of India. It is further understood and agreed that the Government of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the Agreement. Accordingly, SPD expressly waives, releases and foregoes any and all actions or claims against the Government of India arising out of this Agreement, not to sue the Government of India as to any manner, claim, and cause of action or thing whatsoever arising out of or under this Agreement.

18.17 Bribes and Gifts

Any bribe, commission, gift or advantage given, promised or offered by or on behalf of the SPD or his parties, agent or servant or any one on his or their behalf to any officer, servant, representative or agent of HAL or any person on his or their behalf in relation to the obtaining or to the execution of this or any other Agreement with HAL shall in addition to any criminal liability which the SPD may incur, subject the SPD to the cancellation of this and all other Agreements with HAL and also to payment of any loss or damage resulting from any such cancellation. Any question or dispute as to the commission of any offence under the present clause shall be settled by HAL in such manner and on such evidence or information as they may think fit and sufficient and their decision shall be final and conclusive.
IN WITNESS WHEREOF the Parties have caused the Agreement to be executed through their duly authorized representatives as of the date and place set forth above.

For and on behalf of [HAL KORAPUT]  

Name, Designation and Address  

(Signature with Seal)  

Witness:  

1.  

2.  

On behalf of [Insert the Name of the SPD]  

Name, Designation and Address  

(Signature with Seal)  

Witness:
The Buyback Price with respect to the Solar PV power plant shall be calculated as follows:

Initial Cost is the Completed Project cost duly certified by a Chartered Accountant. SPD shall submit the certificate within one year from the COD. The Depreciation rate is taken as 6.50 % Per Year.

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<th>Year of Term (End of the year)</th>
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The Buyback Price payable shall be the Buyback Price specified in this Annexure that falls on such date before the proposed Purchase Date.