UPNEDA invited Online Bids (e-tenders) from interested Bidders for procurement of Power from Grid connected Solar PV Power Projects through Tariff based competitive Bidding Process for total 500 MW on the basis of International competitive Bidding Process in accordance with Ministry of Power “Tariff based bidding Guidelines for Solar PV Power Projects” as per the details given in e-tender document. The details can be seen or downloaded from website: https://www.bharatelectronticfighter.com

Amendments in the e-tender document proposed are as below:

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Clause No</th>
<th>Existing Clause</th>
<th>Amended Clause</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>RfP 2.10.3.1</td>
<td>Identification of the 100% (hundred per cent) land/water body at the time of bid submission and within 12 (twelve) months of the execution of the PPA, submission of documents/ Lease Agreement to establish possession/ lease 100% (hundred per cent) of the required land/water body in the name of the Solar Power Generator or its Affiliate. In case the land is in the name of Affiliate, the land should be transferred in the name of Solar Power Generator prior to Scheduled Commissioning Date (SCD).</td>
<td>Identification of the 100% (hundred per cent) land/water body at the time of bid submission and submission of documents/ Lease Agreement to establish possession/right to use 100% (hundred per cent) of the required land/water body in the name of the Solar Power Generator for a period not less than the complete term of the PPA, on or before the Scheduled Commissioning Date (SCD).</td>
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<td>2.</td>
<td>RfP 2.27.2</td>
<td>Within twelve months from the date of signing of the PPA, the project developer has to provide evidence that the requisite technical criteria have been fulfilled and required land for project development @ 1.5 Hectares/MW is under clear possession of the project developer. In this regard the Project developer shall be required to furnish the following documentary evidences:</td>
<td>On or before the Scheduled Commissioning Date (SCD), the project developer has to provide evidence that the requisite technical criteria have been fulfilled and required land for project development minimum @ 1.5 Hectares/MW is under clear possession of the project developer. In this regard the Project developer shall be required to furnish the following documentary evidences:</td>
</tr>
<tr>
<td>3</td>
<td>RfP 2.26 8</td>
<td>Due Dates <strong>Completion of the following tasks:</strong> a. Land Allotment/ Land Purchase/Water body allotment. PPA date + 360 days</td>
<td>Due Dates <strong>Completion of the following tasks:</strong> a. Land Allotment/ Land Purchase/Water body allotment. PPA date + 18 months</td>
</tr>
<tr>
<td>4</td>
<td>PPA Article 3 3.1.1</td>
<td>The SPP agrees and undertakes to duly perform and complete all of the following activities at the SPP’s own cost and risk within twelve months (12) from the Date of Signing of PPA, unless such completion is affected by any Force Majeure event, or if any of the activities is specifically waived in writing by UPNEDA.</td>
<td>The SPP agrees and undertakes to duly perform and complete all of the following activities at the SPP’s own cost and risk from the Date of Signing of PPA, unless such completion is affected by any Force Majeure event, or if any of the activities is specifically waived in writing by UPNEDA:</td>
</tr>
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<td>5</td>
<td>PPA- Article 3 3.1.1 (a)</td>
<td>The SPP/Seller shall have acquired land/water body and taken possession of the total land/water body required for the Solar PV Project on which the project developer wishes to install the required capacity within twelve months (12) months of signing of PPA.</td>
<td>The SPP/seller shall have acquired land/water body and taken possession of the total land/water body required for the Solar PV Project on which the project developer wishes to install the required capacity and submission of documents/Lease Agreement to establish possession/right to use 100% (hundred per cent) of the required land/water body in the name of the Solar Power Generator for a period not less than the complete term of the PPA, on or before the Scheduled Commissioning Date (SCD).”</td>
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<tr>
<td>6</td>
<td>RfP Format 4.4 (C): Qualification Requirement – Consents, Clearances and Permits</td>
<td>In case of non-availability of land/Water Body – We declare that the documentary evidence will be produced by us for the availability of land/water body for setting up solar power projects within 360 days of the signing of PPA and will provide evidence that the requisite technical criteria have been fulfilled and required land for project development minimum @ 1.5 Hectares/MW is under clear possession of the project developer or In case of project to be installed on water body,</td>
<td>In case of non-availability of land/Water Body – We declare that the documentary evidence will be produced by us for the availability of land/water body for setting up solar power projects on or before the Scheduled Commissioning Date (SCD),” and will provide evidence that the requisite technical criteria have been fulfilled and required land for project development minimum @ 1.5 Hectares/MW is under clear possession of the project developer or In case of project to be installed on water body,</td>
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<td>7</td>
<td>PPA Article 3 3.1.1 (c)</td>
<td>The SPP shall have achieved Financial Closure within 12 (twelve) months of signing of this PPA and has provided a certificate to UPNEDA from the lead banker to this effect or In case the funds have been arranged from its internal resources a Board Resolution certifying the same shall be submitted by the bidder; Failing the aforesaid, liquidated damages will be levied as mentioned in clause 3.2.1 unless the delay is not owing to any action or inaction on the part of the SPP or caused due to a Force Majeure. Extension for the attainment of financial closure may be considered by UPNEDA, on the sole request of SPP, on the payment of penalty as mentioned in 3.2.1. This extension will not have any impact on the Scheduled Commissioning Date. Any delay in adoption of tariff by the Appropriate Commission beyond 60 (sixty) days , from the date of application filed by the Procurer for adoption of tariff under section 63 of the Act shall entail a corresponding extension in financial closure.</td>
<td>The SPP shall have achieved Financial Closure within 12 (twelve) months of signing of this PPA and has provided a certificate to UPNEDA from the lead banker to this effect or In case the funds have been arranged from its internal resources a Board Resolution certifying the same shall be submitted by the bidder; Failing the aforesaid, liquidated damages will be levied as mentioned in clause 3.2.1 unless the delay is not owing to any action or inaction on the part of the SPP or caused due to a Force Majeure. Extension for the attainment of financial closure may be considered by UPNEDA, on the sole request of SPP, on the payment of penalty as mentioned in 3.2.1. This extension will not have any impact on the Scheduled Commissioning Date. Any penalty paid so, shall be returned to the SPP without any interest on achievement of successful commissioning within the Scheduled Commissioning Date. However any delay in adoption of tariff by the Appropriate Commission beyond 60 (sixty) days, from the date of application filed by the Procurer for adoption of tariff under section 63 of the Act shall entail a corresponding extension in financial closure.</td>
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| 8    | ARTICLE 11: FORCE MAJEURE | 11.1 Definitions  
11.1.1 In this Article, the following terms shall have the following meanings:  
11.2 Affected Party  
11.2.1 An affected Party means the Seller or the Procurers whose performance has been adversely affected by an event of Force Majeure.  
11.3 Force Majeure  
11.3.1 A ‘Force Majeure’ means any event or circumstance or combination of events and circumstances as 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 in performing its obligations:  
- a) Act of God, including, but not limited to lightning, drought, fire and explosion, earthquake, volcanic eruption, landslide, flood, cyclone, typhoon, tornado, or  
- b) Explosion, accident or breakage of transmission facilities to deliver power from the Delivery Points to the receiving substation(s); or  
- c) 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 making the performance of | 11.1 Definitions  
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11.1.1 In this Article, the following terms shall have the following meanings:  
11.2 Affected Party  
11.2.1 An affected Party means the Seller or the Procurers whose performance has been adversely affected by an event of Force Majeure.  
11.3 ‘Force Majeure’ (FM)  
11.3.1 A Force Majeure would mean one or more of the following acts, events or circumstances or a combination of acts, events or circumstances or the consequence(s) thereof, that wholly or partly prevents or unavoidably delays the performance by the Party (the Affected Party) of its obligations under the relevant Power Purchase Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the Affected Party and could not have been avoided if the Affected Party had taken reasonable care or complied with Prudent Utility Practices.  
11.4. Categorisation of Force Majeure Events:  
11.4.1. Natural Force Majeure Event  
- a) Act of God, including, but not limited to lightning, drought, fire and explosion (to the extent originating from a source external to the site), earthquake, volcanic eruption, landslide, flood, cyclone, typhoon or tornado if it is declared / notified by the competent state / central authority / agency (as applicable), or verified to the satisfaction of Procurer;  
- b) radioactive contamination or ionising radiation originating from a source in India or resulting from another Force Majeure Event mentioned above excluding circumstances where the source |
obligations as specified herein as impossible; or
d) 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.
e) An event of force majeure affecting the concerned
STU, as the case may be, thereby affecting the
evacuation of power from the Delivery Points by the
Procurers; affecting the evacuation of power from the
Delivery Points by the Procurers;  
11.4 Force Majeure Exclusions

11.4.1 Force Majeure shall not include (i) any event or
circumstance which is within the reasonable control of
the Parties and (ii) the following conditions, except to
the extent that they are consequences of an event of
Force Majeure:
a. Non-performance resulting from normal wear and
tear typically experienced in power generation
materials and equipment;
b. Strikes at the facilities of the Affected Party;
c. Insufficiency of finances or funds or the agreement
becoming onerous to perform; and
d. 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

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;
c) the discovery of geological conditions, toxic contamination or
archaeological remains on the Project land that could not
reasonably have been expected to be discovered through an
inspection of the Project land; or
d) any event or circumstances of a nature analogous to any of the
foregoing
11.4.2. Non-Natural Force Majeure Event

a) any act of war (whether declared or undeclared), invasion,
amed conflict or act of foreign enemy, blockade, embargo,
revolution, riot, insurrection, terrorist or military action;
b) nation/state-wide strike, lockout, boycotts or other industrial
disputes which are not directly and solely attributable to the
actions of the Affected Party, but does not include strike or labour
unrest limited to the Affected Party or its contractors;
c) nationalisation or any compulsory acquisition by any Indian
Governmental Instrumentality/ State Government in national
interest or expropriation of any material Project assets or rights of
the Generator, as a result of which the Generator or its
shareholders are deprived (wholly or partly) of their rights or
entitlements under the Power Purchase Agreement. Provided that
such action does not constitute remedies or sanctions lawfully
exercised by the Procuer or any other Government Authority as a
result of any breach of any of the Applicable Laws or the
Applicable Permits by the Generator or the Generator related
parties;
d) action of a Government Authority having Material Adverse
Effect including but not limited to change in law, only if
consequences thereof cannot be dealt with under and in
accordance with the provisions of Clause 12 (change in Law) of
| (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. 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.  

(b) 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  
11.6.1 To the extent not prevented by a Force Majeure Event pursuant to Article 11.3, the Affected Party shall this PPA; any unlawful or unauthorized or without jurisdiction revocation of, or delay in, or refusal, or failure to renew or grant without valid cause, any Permits of the Generator or any of the clearance, license, authorization to be obtained by the Contractors to perform their respective obligations under the relevant PPA and/or the Project Documents; provided that such delay, modification, denial, refusal or revocation did not result from the Generator’s or any Contractors inability or failure to comply with any condition relating to grant, maintenance or renewal of such Permits or clearance, license, authorization, as the case may be.  

11.4.3. Force Majeure Exclusions  
11.4.3.1. Force Majeure shall not include
(i) any event or circumstance which is within the reasonable control of the Parties and  
(ii) the following conditions, except to the extent that they are consequences of an event of Force Majeure:
   a) Unavailability, late delivery, or changes in cost of the plant, machinery, equipment, materials, spare parts or consumables for the Power Project;
   b) Delay in the performance of any contractor, sub-contractor or their agents;
   c) Non-performance resulting from normal wear and tear typically experienced in power generation materials and equipment;.
   d) Strikes at the facilities of the Affected Party;
   e) Insufficiency of finances or funds or the agreement becoming onerous to perform; and
   f) Non-performance caused by, or connected with, the Affected Party’s:
      i. Negligent or intentional acts, errors or omissions;
      ii. Failure to comply with an Indian Law; or
      iii. Breach of, or default under this Agreement.
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

11.7.1 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 as specified under this Agreement;
(c) For avoidance of doubt, neither Party’s obligation to make payments of money due nor payable prior to occurrence of Force Majeure events under this Agreement shall be suspended or excused due to the occurrence of a Force Majeure Event in respect of such Party.
(d) Provided that no payments shall be made by either Party affected by a Force Majeure Event for the period of such event on account of its inability to perform its obligations due to such Force Majeure Event;

11.4.4 Notification of Force Majeure Event

11.4.4.1. The Affected Party shall give notice to the other Party of any event of Force Majeure as soon as reasonably practicable, but not later than seven (7) days after the date on which such Party knew or should reasonably have known of the commencement of the event of Force Majeure. If an event of Force Majeure results in a breakdown of communications rendering it unreasonable to give notice within the applicable time limit specified herein, then the Party claiming Force Majeure shall give such notice as soon as reasonably practicable after reinstatement of communications, but not later than one (1) day after such reinstatement.

11.4.4.2. Provided that such notice shall be a pre-condition to the Affected Party’s entitlement to claim relief under the PPA. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed. The Affected Party shall give the other Party regular (and not less than weekly) reports on the progress of those remedial measures and such other information as the other Party may reasonably request about the Force Majeure Event.

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

11.4.5 Performance Excused

11.4.5.1. The Affected Party, to the extent rendered unable to perform its obligations or part of the obligation thereof under the PPA as a consequence of the Force Majeure Event, shall be excused from performance of the obligations, provided that the period shall not exceed 180 (one hundred and eighty) Days from the date of issuance of the FM Notice. The Parties may mutually agree to extend the period for which performance is excused due
to a Force Majeure Event.

11.4.5.2. For the time period, as mutually agreed by the Parties, during which the performance shall be excused, the generator shall be entitled for a day to day extension of the period provided for Financial Closure or Scheduled Commissioning Period or the PPA period, as the case may be.

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

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

11.4.6. No Liability for Other Losses

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

11.4.7 Resumption of Performance

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

11.4.8. Termination Due to Force Majeure Event

11.4.8.1. Termination due to Natural Force Majeure Event

a) If, prior to the completion of the 180 (one hundred and eighty) Day period (or any extended period) for a Natural Force Majeure
Event commencing from the date of issuance of the Force Majeure Notice, the Parties are of the reasonable view that a Natural Force Majeure Event, is likely to continue beyond such 180 (one hundred and eighty) Day period or any extended period agreed in pursuance of Article 11.4.5 (Performance Excused); or that it is uneconomic or impractical to restore the affected Unit, then the Parties may mutually decide to terminate the PPA, and the termination shall take effect from the date on which such decision is taken.

b) Without prejudice to the provisions of Article 11.4.8.1(a) above, the Affected Party shall, after the expiry of the period of 180 (one hundred and eighty) Days or any other mutually extended period, be entitled to forthwith terminate the PPA in its sole discretion by issuing a notice to that effect.

c) On termination of the PPA pursuant to Article 11.4.8.1(b):
   (i) no Termination Compensation shall be payable to the generator.
   (ii) the Generator shall be eligible for undisputed payments under outstanding Monthly Bill(s), before the occurrence of Force Majeure Event

11.4.8.2. Termination due to Non-Natural Force Majeure Event

a) Upon occurrence of a Non-Natural Force Majeure Event, the Generator shall, at its discretion, have the right to terminate the PPA forthwith after the completion of the period of 180 (one hundred and eighty) Days from the date of the Force Majeure Notice.

b) Notwithstanding anything in Article 11.4.6, on termination of the PPA pursuant to Article 11.4.8.2(a):
   (i) Procuer to pay to the Solar Power Generator, damages, equivalent to 6 (six) months, or balance PPA period whichever is
OFF TAKE CONSTRAINTS DUE TO BACKDOWN

“Must Run” Status will be provided to Solar Power Projects. In case such eventuality of Backdown arises, except for the cases where the Backdown is on account of events like consideration of grid security or safety of any equipment or personnel or other such conditions, the Solar Power Producer shall be eligible for a Minimum Generation Compensation, from the Procurer, in the manner detailed below.

<table>
<thead>
<tr>
<th>Duration of Backdown</th>
<th>Provision for Generation Compensation</th>
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<tbody>
<tr>
<td>Hours of Backdown during a monthly billing cycle.</td>
<td>Minimum Generation Compensation = 50% of ( [(Average Generation per hour during the month) \times (number of backdown hours during the month) \times PPA Tariff] ) Where, Average Generation per hour during the month (kWh) = Total generation in the month (kWh) ÷ Total hours of generation in the month.</td>
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</table>

OFF TAKE CONSTRAINTS DUE TO BACKDOWN

The Solar Power Generator and the Procurer shall follow the forecasting and scheduling process as per the regulations in this regard by the Appropriate Commission. “Must Run” Status will be provided to Solar Power Projects. In case such eventuality of Backdown arises, except for the cases where the Backdown is on account of events like consideration of grid security or safety of any equipment or personnel or other such conditions, the Solar Power Producer shall be eligible for a Minimum Generation Compensation, from the Procurer, in the manner detailed below.

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<td><strong>10</strong></td>
<td><strong>RfP 2.29.1 Delay in Commissioning of Power Plant</strong></td>
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<td></td>
<td><strong>Description</strong></td>
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<td></td>
<td>The Generation Compensation shall be paid as part of the energy bill for the successive month after receipt of Regional Energy Accounts (REA). No Trading Margin shall be applicable on this Generation Compensation. (b). The Generation Compensation is to be paid as part of the energy bill for the successive month after receipt of Regional Energy Accounts (REA). No Trading Margin shall be applicable on this Generation Compensation. (c) If back-down/curtailment is ordered prior formal/ written instruction for the same will be issued. (d). The details of back-down / curtailment, including justifications for such curtailment, will be made public by the concerned Load Dispatch Centre.”</td>
</tr>
<tr>
<td></td>
<td>In case of delay in commissioning of the Project beyond the SCD until the date as on 24 months from the Effective Date of the PPA (as applicable), as part of the liquidated damages, the total PBG amount for the Project shall be encashed on per-day-basis and proportionate to the balance capacity not commissioned. For example, in case of a Project of 50 MW capacity, if commissioning of 20 MW capacity is delayed by 18 days beyond the SCD, then the liquidated damages shall be: PBG amount X (20/50) X (18/180). For the purpose of calculations of the liquidated damages, ‘month’ shall be considered consisting of 30 days. In case the Commissioning of the Project is delayed beyond the date as on 24 months from the Effective Date of the PPA (as applicable), the PPA capacity shall stand reduced/ amended to the Project Capacity Commissioned and the PPA for the balance capacity will stand terminated and shall be reduced from the selected Project Capacity. In case of delay in commissioning of the Project beyond the Scheduled Commissioning Date until the date as on 24 months from the Effective Date of the PPA (as applicable) as part of the liquidated damages, the total PBG amount for the Project shall be encashed on per-day basis and proportionate to the balance capacity not commissioned. For example, in case of a Project of 50 MW capacity, if commissioning of 20 MW capacity is delayed by 18 days beyond the SCD, then the liquidated damages shall be: PBG amount X (20/50) X (18/180). For the purpose of calculations of the liquidated damages, ‘month’ shall be considered consisting of 30 days. In case the Commissioning of the Project is delayed beyond the date as on 24 months from the Effective Date of the PPA, the PPA capacity shall stand reduced/ amended to the Project Capacity Commissioned and the PPA for the balance capacity will stand terminated and shall be reduced from the selected Project Capacity. It is presumed that, the tariff will be adopted by the Appropriate Commission within 60 days of submission of Application/Petition. However, any delay in adoption of tariff by the Appropriate Commission, beyond 60 (sixty) days, shall entail a corresponding extension in scheduled commissioning date.”</td>
</tr>
</tbody>
</table>
If the SPP is unable to commence supply of power to Procurers by the Scheduled Commissioning Date other than for the reasons specified in Article 4.7.1, the SPP shall pay to UPNEDA, Liquidated 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 following:

UPNEDA shall encash the Performance Bank Guarantee in the following manner:

- In case of delay in commissioning of the Project beyond the SCD until the date as on 24 months from the Effective Date of the PPA (as applicable), as part of the liquidated damages, the total PBG amount for the Project shall be encashed on per-day basis and proportionate to the balance capacity not commissioned. For example, in case of a Project of 50 MW capacity, if commissioning of 20 MW capacity is delayed by 18 days beyond the SCD, then the liquidated damages shall be: PBG amount X (20/50) X (18/180). For the purpose of calculations of the liquidated damages, ‘month’ shall be considered consisting of 30 days.

In case the Commissioning of the Project is delayed beyond the date as on 24 months from the Effective Date of the PPA (as applicable), the PPA capacity shall stand reduced/ amended to the Project Capacity Commissioned and the PPA for the balance capacity will stand terminated and shall be reduced from the selected Project Capacity.

b) It is presumed that, the tariff will be adopted by the Appropriate Commission within 60 days of submission of Application/Petition. However, any delay in adoption of tariff by the Appropriate Commission, beyond 60 (sixty) days, shall entail a corresponding extension in scheduled commissioning date.”