

ANNEXURE - B

Instruction to applicants:

- 1.) The applicant should ensure that the application form is duly filled and complete in all respects.
- 2.) All the documents as mentioned in Annexure-A should be submitted along with the application form.
- 3.) The application fee and the guarantee fee should be submitted in accordance with Clause 3.7 of the Operation Manual.

The fee can be submitted in form of DD or through online transfer to the following account:

Account Name: **PRGFEE-BEE PROJECT**

Account No.: **602001011002931**

Bank Name: VIJAYA BANK

IFSC Code: **VIJB0006020**

Branch Address: Bhikaji Cama Place, R.K. Puram, New Delhi, Delhi 110066

In case of online transfer, the applicant should provide a proof of transfer of fee to the PRGFEE- BEE Project account.

Evaluation Strategy

The prospectus of this evaluation strategy is intended to help ESCO in their project to avail loan for the their proposed project for Energy Efficiency and achieve appropriate score to avail Partial Risk Guarantee Fund for Energy Efficiency (PRGFEE) to PFI from Implementing Agency (IA) for the said project. The evaluation process of PRGFEE would be done as per procedure explained in subsequent paragraphs.

1. Preliminary scrutiny of Application by Implementing Agency (IA) for Partial Risk Guarantee

Preliminary scrutiny shall be conducted based on the details provided by PFI in the application form along with requisite documents to avail Partial Risk Guarantee facility for the proposed project.

2. Technical Evaluation

Detailed evaluation of the project shall be done based on information contained in DPR and additional information submitted by ESCO which has been asked from the ESCO as a part of requirement for the project evaluation. Technical evaluation shall be done based on various parameters defined in the evaluation model (Annexure-1). Parameters considered for technical evaluation would be type of project, ESCO grading, proposed energy efficient technology, reduction in energy consumption, GHG abatement during entire life of the project, energy saved etc. Projects which gets qualify at the technical stage would further be evaluated for financial feasibility. Physical verification shall be done during the technical evaluation of the project by Implementing Agency (IA).

3. Financial Evaluation

Projects which are technically qualified shall further be evaluated based on the financial parameters to check the financial feasibility and soundness of the project. Financial evaluation shall be done based on various parameters defined in the evaluation model (Annexure-2). Parameters considered for financial evaluation would be project cost, Internal Rate of Return (IRR), Net Present Value (NPV), Debt Service Coverage Ratio (DSCR) accounting Payback Period etc.

4. Summary Report of Evaluation

After completing the Technical and Financial evaluation, Implementing Agency (IA) would prepare a summary report. The summary report would be based on the total marks secured in the technical evaluation marks with the 60% of weighted and financial evaluation marks with the 40% of weighted (Annexure-3). The project, which secures minimum 50% will be eligible for the guarantee under PRGFEE scheme.

5. Grant of Guarantee

Based on the marks secured in the technical and financial evaluation, the project would be considered for granting a guarantee based on the criteria as stipulated below:-

| Partial Risk Allowed | Guarantee | Final Score awarded |
|----------------------|-----------|---------------------|
| 0% | | Less 50 |
| 10% | | 50 -59.99 |
| 20% | | 60-69.99 |
| 30% | | 70-79.99 |
| 40% | | 80-89.99 |
| 50% | | 90 above |

Annexure – 1 Technical Evaluation

| Technical Evaluation Form | | | | | | |
|--|---|-------------------------------|--------------|------------------|--|--|
| Title of the Project | | | | | | |
| Name of the project (EPC contractor /ESCO company) | | | | | | |
| Sr. No. | Particulars | Maximum Marks (with break-up) | Marks Scored | Official Remarks | Supporting Documents | |
| 1 | Name of the project (EPC contractor/ESCO company) | 10 | | | Copy of grading certificate of ESCO from BEE shall be submitted | |
| | a Grade 1 | | 10 | | | |
| | b Grade 2 | | 7 | | | |
| | c Grade 3 | | 5 | | | |
| | d Grade 4 | | 3 | | | |
| 2 | Type of Project | 10 | | | | |
| | a Retrofit | | 6 | | | |
| | b Replacement | | 8 | | | |
| | c Green Field | | 10 | | | |
| 3 | Technology to be employed (Whether state of art) | 15 | | | Sufficient evidence of energy efficiency for imported equipment's equivalent to Indian Standards | |
| | a Indian | | 15 | | | |
| | b Imported | | 12 | | | |
| 4 | Transfer of Technology (methodology) if any | 8 | | | ESCO has to provide the supporting documents for the innovative technology proposed for the project activity. The proposed technology should help the sector in improving the energy efficiency. | |

| | | | | | | |
|---|---|--|----|----|--|--|
| 5 | | Brief Details of the Baseline considered for the calculation of the Energy saving | | | | |
| A | | Reduction in energy consumption (kWh/MTOE) | 12 | | | Provide the basis of calculation |
| | a | Below 10 % | | 0 | | |
| | b | 10-15% | | 4 | | |
| | c | 15-20% | | 6 | | |
| | d | 20-25% | | 8 | | |
| | e | 25-30% | | 10 | | |
| | f | Above 30% | | 12 | | |
| B | | Reduction in Demand (kVA) | 10 | | | Provide the basis of calculation |
| | a | Below 10 % | | 0 | | |
| | b | 10-15% | | 3 | | |
| | c | 15-20% | | 4 | | |
| | d | 20-25% | | 6 | | |
| | e | 25-30% | | 8 | | |
| | f | Above 30% | | 10 | | |
| 6 | | Monetary saving Sharing arrangement | 10 | | | Electricity Bills for last 12 Months of the proposed facility or project |
| | a | Below 70% | | 10 | | |
| | b | 70% - 80% | | 9 | | |
| | c | 80% - 95% | | 8 | | |
| | d | Above 95% | | 6 | | |
| 7 | | Estimated GHG abatement during entire life of the project (from the Base Line Emission) | 10 | | | Copy of DPR |
| | a | Below 10% from base line | | 0 | | |
| | b | 10 - 15% from base line | | 2 | | |
| | c | 15 - 20% from base line | | 4 | | |
| | d | 20 - 25% from base line | | 6 | | |
| | e | 25 - 30% from base line | | 8 | | |

| | | | | | | | |
|----------|----------|--|------------|----|--|--|---|
| | f | Above 30% from base line | | 10 | | | |
| 8 | | Sustainable Development Criteria | 10 | | | | evidential proof for CDM registration with UNFCCC |
| | a | use of Energy Efficient BEE Star Label Product | | 5 | | | |
| | b | Project registered/under registration process for availing the CDM (Clean Development Mechanism) benefits of UNFCCC (United Nation Framework Convention for Climate Change), | | 2 | | | |
| | c | Disposal of existing (replaced) inefficient equipment with environment friendly techniques | | 3 | | | |
| 9 | | Measurement and Verification cost | 5 | | | | Measurement & Verification Protocol |
| | a | Below 2% of total project cost | | 5 | | | |
| | b | 2-5% of the total project cost | | 4 | | | |
| | c | 5-8% of the total project cost | | 3 | | | |
| | d | Above 8% of the total project cost | | 2 | | | |
| | | Total | 100 | | | | |

Brief Comment of Implementing Agency(IA):

| Sr. No. | Comments of IA | Maximum Marks | Marks Scored |
|---------|---|---------------|--------------|
| 1 | <i>Comments on the Vendor selection procedure and its capability based on the documents provided in the DPR as annexure << Track record of Vendor supplying equipments should be verified considering price of Equipment and Technology of Equipments>></i> | 15 | |
| 2 | Comments on the Base Line & Energy Saving calculation Methodology: | 15 | |
| 3 | Comments on the impact of the variables considered for the calculation of Energy saving : | 15 | |
| 4 | Comments on data format to be used for the Monitoring & verification strategy to be adopted for the monitoring of the project | 10 | |
| 5 | Comments on the past year Energy consumption pattern and variation which will have major impact on the energy saving | 10 | |
| 6 | Comments on the Energy Saving Equipment & Technology used | 15 | |

| | | | |
|---|---|-----|--|
| 7 | Analysis on Economies of scale w.r.t. the project investment & energy savings | 20 | |
| | | 100 | |

| Summary Form Technical Evaluations | | | | | |
|------------------------------------|----------------------|---------------|-----------|--------------|-------------|
| Sr. No. | Particular Marks | Maximum Marks | Weightage | Marks Scored | Final Score |
| 1 | Objective Questions | 100 | 60% | | |
| 2 | Subjective Questions | 100 | 40% | | |
| 3 | Total | 200 | 100% | | |

Annexure – 2 Financial Evaluation

| Financial Evaluation Form | | | | | | | |
|---------------------------|-----------------------|---------------|--|--------------|------------------|--|----|
| Sr. No. | Particulars | Maximum Marks | Sectional Marks | Marks Scored | Official Remarks | Supporting | |
| | Networth | | | | | | |
| A | ESCO Company | 20 | | | | Management certified copy of Latest Audited Financial Statements of ESCO | |
| | a | | Below 15% of the proposed Project cost | 7 | | | 13 |
| | b | | 15 - 20% of the proposed Project cost | 10 | | | |
| | c | | 20 - 25% of the proposed Project cost | 13 | | | |
| | d | | 25 - 30% of the proposed Project cost | 16 | | | |
| | e | | Below 30% of the proposed Project cost | 20 | | | |
| B | Facility Owner | 20 | | | | Management certified copy of Latest Audited Financial Statements of Facility Owner | |
| | a | | Below 15% of the proposed Project cost | 7 | | | 28 |
| | b | | 15 - 20% of the proposed Project cost | 10 | | | |
| | c | | 20 - 25% of the proposed Project cost | 13 | | | |
| | d | | 25 - 30% of the proposed Project cost | 16 | | | |
| | e | | Below 30% of the proposed Project cost | 20 | | | |

| | | | | | | |
|---|---|---|----|----|----|--|
| 2 | | Average Annual Gross receipts of Facility Owner for last 3 financial years | 12 | | | Management certified copy of Latest Audited Financial Statements of Facility Owner |
| | a | Below 200% of the proposed project cost | | 0 | 12 | |
| | b | 200 - 300% of the proposed project cost | | 4 | | |
| | c | 300 - 500% of the proposed project cost | | 8 | | |
| | d | More than 500% of the proposed project cost | | 12 | | |
| 3 | | Project Equity (Promoters Contribution in the Project Equity) | 10 | | | Based on the details provided in the Application Form about Equity Financing |
| | a | less than 26% | | 0 | 10 | |
| | b | 26% to 50% (4-8) | | 5 | | |
| | c | More than 50% | | 10 | | |
| 4 | | IRR of the Project | 8 | | | Based on the details provided in the Application Form and in the DPR about Internal Rate of Return |
| | a | Below 10% | | 0 | | |
| | b | 10 - 15% | | 3 | | |
| | c | 16 - 20% | | 6 | | |
| | d | above 20% | | 8 | | |
| 5 | | average DSCR of the Project | 8 | | | <i>While calculation of DSCR accelerated rate depreciation should not be considered.</i> Calculation details shall be provided along with Application Form |
| | a | Below 1 | | 0 | | |
| | b | 1 - 1.5 | | 3 | | |
| | c | 1.6 - 2 | | 6 | | |
| | d | above 2 | | 8 | | |

| | | | | | | |
|---|---|--|------------|---|-------------|--|
| 6 | | Accounting Payback period of the Project | 8 | | | Based on the details provided in the Application Form and in the DPR about Accounting Payback Period |
| | a | above 5 | | | 4 | |
| | b | 3- 5 years | | 0 | 1.6 | |
| | c | 1.5 - 3 year | | 3 | | |
| | d | Below 1.5 years | | 6 | | |
| 7 | | NPV of the Capital Cost | 8 | | | NPV shall be calculated at the discounting rate (Bank Interest Rate + 200 Basis points) |
| | a | NPV is positive | | 8 | | |
| | b | NPV is negative | | 0 | | |
| | c | | | | | |
| | d | | | | | |
| 8 | | Whether any Concessional Foreign Currency Funding is available to the Project | 3 | | | |
| | a | Yes | | 3 | | |
| | b | No | | 0 | | |
| 9 | | Project appraised by any Financial Institution in below mentioned category: | 3 | | | |
| | a | Scheduled Commercial Nationalised Bank | | 3 | | |
| | b | Scheduled Commercial Private Sector Bank | | 2 | | |
| | | Total | 100 | | 68.6 | |

| Brief Comment of IA: | | | | |
|-----------------------------|--|-----------------------|----------------------|---------------------|
| Sr. No. | Parameter | Comments of IA | Maximum Marks | Marks Scored |
| 1 | Economic Benefits from the proposed project: | | 25 | 5 |
| 2 | whether ESCO is currently involved in any other Energy Efficiency Project other than proposed project to understand Economies of scale available to ESCO: | | 25 | 5 |
| 3 | Working Capital requirement and managing capacity of the ESCO after considering projects in hand : | | 15 | 5 |
| 4 | Execution capability of ESCO | | 20 | 5 |
| 5 | any other Comments | | 15 | 5 |
| <i>Note:</i> | | | 100 | 25 |

| Summary Form Financial Evaluation | | | | | |
|--|-------------------------|----------------------|------------------|---------------------|--------------------|
| Sr. No. | Particular Marks | Maximum Marks | Weightage | Marks Scored | Final Score |
| 1 | Objective Questions | 100 | 60% | | |
| 2 | Subjective Questions | 100 | 40% | | |
| 3 | Total | 200 | 100% | | |

Annexure – 3 Summary of Evaluation

| Summary Form | | | | | |
|--------------|----------------------------------|---------------|-----------|--------------|-------------|
| Sr. No. | Particular Marks | Maximum Marks | Weightage | Marks Scored | Final Score |
| 1 | Total Technical Evaluation Marks | 100 | 60% | | |
| 2 | Total Financial Evaluation Marks | 100 | 40% | | |
| 3 | Total | 200 | 100% | | |

| Partial Risk Guarantee Allowed | Final Score awarded |
|--------------------------------|---------------------|
| 0% | Less 50 |
| 10% | 50 -59.99 |
| 20% | 60-69.99 |
| 30% | 70-79.99 |
| 40% | 80-89.99 |
| 50% | 90 above |

TEMPLATE FOR
GUARANTEE AGREEMENT

Between

Implementing Agency (IA)

And

Participating Financial Institution (PFI)

For

(Partial Risk Guarantee Fund for Energy Efficiency)

This Guarantee Agreement is made on this ____day of _____ at _____ (hereinafter referred to as the “**Guarantee Agreement**” or the “**Agreement**”)

BETWEEN

REC Power Distribution Company Ltd., a company incorporated under the Companies Act, 1956, having its registered office at Core-4, Scope Complex, 7, Lodhi Road New Delhi-110003 and its corporate office at 1016-1023, 10th Floor, Devika Tower, Nehru Place, New Delhi - 110019 (hereinafter referred to as the “**Implementing Agency**” or the “**IA**”, which expression shall, unless contrary to the context, mean and include its successors and permitted assigns), of the **First Part**;

AND

_____ having its office at _____ (hereinafter referred to as “**PFI**”), which expression shall, unless contrary to the context, mean and include its successors and permitted assigns, Party of the **Other Part**;

(IA and PFI are individually also referred to as “Party” and collectively as “Parties”.)

WHEREAS

[RECITALS APPLICABLE IN CASE APPLICATION FOR PRGFEE IS MADE PRIOR TO SIGNING OF THE LOAN AGREEMENT]

- A) The Implementing Agency is appointed by BEE for assisting in successful implementation of projects under PRGFEE scheme in terms of the Implementing Agency Agreement dated July 16, 2015 (“**IA Agreement**”) read with the Operations Manual as appended hereto as **Appendix A (“OM”)** and the PRGFEE Rules as appended herewith hereto as **Appendix B**.
- B) The mission of the BEE is to assist in developing policies and strategies with a thrust on self-regulation and market principles, within the overall framework of the Energy

Conservation Act, 2001 with the primary objective of reducing energy intensity of the Indian economy.

- C) BEE is empowered by section 13 (2) (m) of the Energy Conservation Act, 2001 to give financial assistance to the institutions for promoting efficient use of energy and its conservation.
- D) The Government of India has decided to implement the National Mission for Enhanced Energy Efficiency (NMEEE) to significantly scale up energy efficiency implementation in specified sectors.
- E) BEE in its efforts to achieve the objectives set under the NMEEE of scaling up the efforts to create the market for energy efficiency has decided to set up Partial Risk Guarantee Fund for Energy Efficiency (hereinafter called the “**PRGFEE**”). It is envisaged that the IA, after conducting necessary due diligence, will cause the provision of PRGFEE guarantees to Participating Financial Institutions (PFIs) operating in India with the objective of reducing the credit risk of the PFIs, while lending towards energy efficiency projects.
- F) _____ (“**Facility Owner**”) for its facility located at _____ (“**Project**”) has accepted the proposal of _____ (hereinafter referred to as “**ESCO**”) being an ESCO empanelled with BEE through its Letter of Acceptance No. _____ dated _____ (hereinafter called the “**LOA**”).
- G) ESCO had submitted loan application bearing No. _____ dated _____ to PFI supported by completed ESCO Performance Contract along with Schedules, Exhibits and Appendices for energy efficiency Project seeking a loan of Rs. _____/- (“**Loan Amount**”) from the PFI for the purposes of setting-up the Project.
- H) PFI after conducting necessary due diligence has accepted the loan application and issued the in-principle sanction letter bearing No. _____ dated _____ approving the Loan Amount on the terms and conditions contained therein and had simultaneously applied for seeking support of the PRGFEE guarantee available under PRGFEE towards lending for the Project, by submitting an Appraisal Report and essential information as required by IA for approval of the PRGFEE guarantee.
- I) IA after completing the necessary due diligence based on the information submitted by PFI and had approved Rs. _____ (amount) as the amount being ___% of the

Loan Amount (“**Guarantee Amount**”) for which PRGFEE guarantee could be issued in favour of the PFI in relation to the Project vide its approval letter no. _____ dated _____ on the terms and conditions as mentioned in this Agreement (“**PRGFEE Guarantee Approval Letter**”).

- J) Pursuant thereto, the facility/loan agreement dated _____ has been entered into *inter alia* by and between the PFI and the ESCO (“**Loan Agreement**” attached herewith as **Annexure I**).
- K) The PFI has now submitted a PRGFEE guarantee fee of Rs. _____ (Rupees _____) to IA towards issuance of PRGFEE guarantee as approved by the IA vide the PRGFEE Guarantee Approval Letter.
- L) Accordingly, the IA has agreed to provide the support and the PFI has agreed to avail the support of the Guarantee to be issued by the designee of the IA (“**Issuing Bank**”) up to the maximum extent of the Guarantee Amount on the terms and conditions contained in this Guarantee Agreement detailing the respective roles and responsibilities and functioning principles applicable to the Guarantee, during the tenure of the Guarantee.

[RECITALS APPLICABLE IN CASE APPLICATION FOR PRGFEE IS MADE AFTER SIGNING OF THE LOAN AGREEMENT]

- A) The Implementing Agency is appointed by BEE for assisting in successful implementation of projects under PRGFEE scheme in terms of the Implementing Agency Agreement dated July 16, 2015 (“**IA Agreement**”) read with the Operations Manual as appended hereto as **Appendix A** (“**OM**”) and the PRGFEE Rules as appended herewith hereto as **Appendix B**.
- B) The mission of the BEE is to assist in developing policies and strategies with a thrust on self-regulation and market principles, within the overall framework of the Energy Conservation Act, 2001 with the primary objective of reducing energy intensity of the Indian economy.
- C) BEE is empowered by section 13 (2) (m) of the Energy Conservation Act, 2001 to give financial assistance to the institutions for promoting efficient use of energy and its conservation.

- D) The Government of India has decided to implement the National Mission for Enhanced Energy Efficiency (NMEEE) to significantly scale up energy efficiency implementation in specified sectors.
- E) BEE in its efforts to achieve the objectives set under the NMEEE of scaling up the efforts to create the market for energy efficiency has decided to set up Partial Risk Guarantee Fund for Energy Efficiency (hereinafter called the “**PRGFEE**”). It is envisaged that the IA, after conducting necessary due diligence, will cause the provision of PRGFEE guarantees to Participating Financial Institutions (PFIs) operating in India with the objective of reducing the credit risk of the PFIs, while lending towards energy efficiency projects.
- F) The PFI has entered into a Loan Agreement dated _____ (“**Loan Agreement**” attached herewith as **Annexure I**) with the _____ (“**ESCO**”) in relation to grant of a maximum amount of Rs. _____/- (Rupees _____ only) (“**Loan Amount**”) as loan for the energy efficiency project located at _____ (“**Project**”) of _____ (“**Facility Owner**”). The ESCO is empanelled with BEE through its Letter of Acceptance No. _____ dated _____ (hereinafter called the “**LOA**”). One of the pre-conditions to disbursement of the Loan Amount (or any part thereof) under the Loan Agreement is that the support of the PRGFEE Guarantee should have been obtained.
- G) Pursuant thereto, the PFI had applied for seeking support of the PRGFEE guarantee available under PRGFEE towards lending for the Project, by submitting an Appraisal Report along with the Loan and other essential information as required by IA for approval of the PRGFEE guarantee.
- H) IA after completing the necessary due diligence based on the information submitted by PFI and had approved Rs. _____ (amount) as the amount being ___% of the Loan Amount (“**Guarantee Amount**”) for which PRGFEE guarantee could be issued in favour of the PFI in relation to the Project vide its approval letter no. _____ dated _____ on the terms and conditions as mentioned in this Agreement (“**PRGFEE Guarantee Approval Letter**”).

- I) The PFI has now submitted a PRGFEE guarantee fee of Rs. _____ (Rupees _____) to IA towards issuance of PRGFEE guarantee as approved by the IA vide the PRGFEE Guarantee Approval Letter.
- J) Accordingly, the IA has agreed to provide the support and the PFI has agreed to avail the support of the Guarantee to be issued by the designee of the IA ("**Issuing Bank**") up to the maximum extent of the Guarantee Amount on the terms and conditions contained in this Guarantee Agreement detailing the respective roles and functioning principles applicable to the Guarantee, during the tenure of the Guarantee.

Now this Agreement witnesses as under Both Parties have agreed as follows:-

1. DEFINITIONS

The capitalized terms used herein but not defined shall have the same meaning ascribed thereto in the Operations Manual. In addition to the terms defined hereinabove the following terms shall have the meaning provided thereagainst:-

"Amount in Default" for the purpose of this Agreement shall mean the lower of the following:

- (a) principal Loan Amount outstanding in the account(s) of the borrower, as on the date of the account becoming NPA and
- (b) Guarantee Amount under PRGFEE on the date of account becoming NPA;

"IA" shall have the meaning ascribed to such term in the party clause above;

"ESCO" shall have the meaning ascribed to such term in the Recitals above;

"Guarantee" means the guarantee for a maximum amount of Rs. _____/- and for a tenure of ____ years (as more particularly laid down in the Guarantee) caused to be provided by the IA through the Issuing Bank under PRGFEE pursuant to the terms of the OM and this Agreement in relation to the facilities being extended by the PFI to ESCO substantially in the format annexed hereto as Annexure I;

“**Guarantor**” means the Issuing Bank appointed by the IA for issuing the Guarantee for the purpose of granting guarantee under PRGFEE and this Agreement;

“**Non-Performing Assets (NPA)**” means an asset classified as non-performing by the PFI based on the instructions and guidelines issued by the Reserve Bank of India from time to time.

“**Supervisory Committee**” means the committee set-up by BEE with representatives from, BEE, Ministry of Power, Ministry of Finance and other members nominated by MoP for taking decision towards providing Guarantee on the application submitted by the PFI for any energy efficiency project.

2. ISSUANCE OF PRGFEE GUARANTEE

The IA hereby agrees to extend through its designee and the PFI hereby agrees to accept the Guarantee up to the maximum amount of Rs. _____/- being ____% of the Loan Amount, issued substantially in the format annexed hereto as **Annexure II** on the terms and conditions contained herein and in the OM. The Parties hereby agree to abide by the terms of the OM, being the primary document governing the operation of PRGFEE and hereby undertake to comply with the terms and conditions thereof and hereof including their respective roles and responsibilities under PRGFEE as detailed under the OM.

3. APPLICATION AND GUARANTEE FEES

The IA hereby acknowledges the receipt of the Guarantee Fee of Rs. _____/- being 1% of the Guarantee Amount submitted by the PFI towards issuance of the Guarantee and Application Fee of Rs. _____/- being 0.25% of the amount of the Guarantee sought by PFI at the time of submission of its application for approval of the Guarantee with the IA. The PFI acknowledges and accepts that on and from the date hereof the Application Fee and the Guarantee Fee shall be non-refundable.

4. REPORTING, TRANSACTION & EVALUATION

4.1 For PFI:

A. PFI shall provide quarterly and annual reports to the IA that includes the following information:

- i. Information regarding its activities pursuant to the Guarantee Agreement;
 - ii. The status, including payment performance, of all transactions for which Guarantee have been issued;
 - iii. The PFI's quarterly and annual financial statements, performance indicators, and indicators regarding the quality of its overall loan/lease portfolio in relation which PRGFEE Guarantees have been issued;
 - iv. Any changes in PFI's credit and monitoring procedures; and
 - v. Any other information as directed by Supervising Committee, BEE or Ministry of power from time to time
- B. In addition, PFIs shall cooperate, and shall cause the other parties in the transaction to cooperate, in the monitoring and evaluation of energy and cost savings performance of the Project supported by the Guarantee.

5. CLAIMS

5.1 Guarantee Claim Procedure

In case the PFI decides to raise a claim under PRGFEE, the same shall be settled only by following the process laid down herein below:

Step 1: Submit the Guarantee Claim Form, as prescribed in the OM, to IA within a maximum period of one year from date of declaration of the project as Non-Performing Assets (NPA) providing all the necessary details in relation to the Project, loan account etc.

Step 2: IA will appoint an Independent M&V Consultant within 10 working days from the date of receipt of Guarantee Claim Form from the PFI, to assess the default in the EE Loan.

Step 3: IA will ensure that the M&V report is submitted within 25 working days of appointment of the Independent M&V Consultant and future processing of the Guarantee Claim will depend on this M&V report. A copy of the M&V report will be circulated to the concerned PFI for their comments; and

- In case, no comment is received from any of the parties within 5-15 working days of receipt of the report, it would be deemed that the M&V report is final and legally binding on all the concerned parties;

- The comments/ objections, if any, would be formally discussed and mutually agreed between Independent M&V Consultant, and the PFI, within 60 days of submission of the Guarantee Claim Form.
- Based on the mutual agreement on the M&V report, Implementing Agency will decide on the processing of the Guarantee Claim.

Step 4: In case, the Guarantee Claim is found to be fraudulent, or in the event of serious deficiencies, such as inadequate appraisal/ renewal/follow-up/conduct of the project or multiple lodgment of claim, or suppression of any material information for the settlement of claims, etc., the IA will issue a letter communicating the rejection of the Guarantee Claim to the PFI and the Issuing Bank (“**Guarantee Claim Rejection Letter**”) and will propose to Supervisory Committee for de-empament of the PFI from PRGFEE for future Guarantee Application (s) new EE Projects, while continuing other existing EE Projects under PRGFEE with the PFI. In case, the Guarantee Claim is determined to be genuine, Implementing Agency shall communicate its acceptance thereof and approving the release of up to the maximum extent of 75% of the Guarantee Amount in accordance with the terms of the OM by issuing a letter to the PFI and the Issuing Bank (“**Guarantee Claim Approval Letter**”).

Step 5: The PFI shall thereafter, submit the demand notice (*along with the original of the Guarantee if so required by the Issuing Bank*) and the original of the Guarantee Claim Approval Letter received by it from the IA with the Issuing Bank, pursuant to which the Issuing Bank shall promptly process the release of the amount stated in the Guarantee Claim Approval Letter without further scrutiny of the Guarantee Claim. The original of the Guarantee shall thereafter be released back to the PFI with an appropriate endorsement of the Issuing Bank with respect to the Guarantee Amount released (75% of the Guarantee Amount) and the Guarantee Amount pending (25% of the Guarantee Amount) and to be released upon receipt of intimation from the Implementing Agency.]

Step 6: The PFI shall thereafter proceed and against the other secured assets of the ESCO for recovery of the remaining Amount in Default (not covered by the Guarantee) and the proceeds of the same shall be distributed on *pro rata* basis amongst the PRGFEE and the PFI in accordance with the terms of the OM.

Step 7: Upon the completion of the recovery process from the secured assets (other than the Guarantee) of the ESCO and the consequent *pro rata* distribution of the proceeds of such recovery, the PFI shall submit the necessary Guarantee Claim Form along with the relevant documentary evidence and all other information as may be sought by the IA, towards release of the remaining amount of the Guarantee (being 25% of the Guarantee Amount).

Step 8: The IA shall undertake appropriate due diligence of the documents submitted by the PFI and if found appropriate shall issue an intimation to the Issuing Bank with a copy thereof to the PFI for the release of the remaining Guarantee Amount (being 25% of the Guarantee Amount) to the PFI and the Issuing Bank. Pursuant thereto the Issuing Bank shall promptly process the release of the amount stated therein without further scrutiny of the Guarantee Claim and the Issuing Bank and/or the IA shall have no further obligations hereunder or under the Guarantee.

- 5.2 PFI shall not make or be entitled to make any claim on the PRGFEE in respect of the default of the said credit facility owing to actions/ decisions taken contrary to or in contravention of the guidelines issued by the PRGFEE.
- 5.3 **The** claim should be preferred by the PFI in such manner and within such time as may be specified by the PRGFEE in this behalf.
- 5.4 **The** PFI shall be liable to refund the claim released by the PRGFEE together with penal interest at the rate of 4% above the prevailing Bank Rate, as prescribed by the Reserve Bank of India, if such a recall is made by PRGFEE in the event of serious deficiencies, such as inadequate appraisal/ renewal/follow-up/conduct of the project or multiple lodgment of claim, or suppression of any material information for the settlement of claims, etc. The PFI shall pay such penal interest, when demanded by the PRGFEE, from the date of the initial release of the claim by the PRGFEE to the date of refund of the claim.
- 5.5 **Subrogation of rights and recoveries on account of claim paid**
 - 5.1.1 The PFI shall furnish to PRGFEE, the details of its efforts for recovery, realization and such other information as may be demanded or required from time to time. The PFI will hold lien on assets created out of the credit facility extended to the borrower, on

its own behalf and on behalf of PRGFEE. The PRGFEE shall not exercise any subrogation rights and that the responsibility of the recovery of dues including takeover of assets, sale of assets, etc, shall rest with the PFI;

- 5.1.2 In the event of a borrower owing several distinct and separate debts to the PFI and making payments towards any one or more of the same, whether the account towards which the payment is made is covered by the guarantee of the PRGFEE or not, such payments shall, for the purpose of this clause, be deemed to have been appropriated by the PFI to the debt covered by the guarantee and in respect of which a claim has been preferred and paid, irrespective of the manner of appropriation indicated by such borrower or the manner in which such payments are actually appropriated.
- 5.1.3 Every amount recovered and due to be paid to the PRGFEE shall be paid without delay, and if any amount due to the PRGFEE remains unpaid beyond a period of 30 days from the date on which it was first recovered, interest shall be payable to the PRGFEE by the PFI at the rate which is 4% above Bank Rate for the period for which payment remains outstanding after the expiry of the said period of 30 days.

6. CONFIDENTIALITY

- 6.1 Both the Parties shall maintain the confidentiality of and shall not disclose or use any information at any time furnished to the Party (Receiving Party) by the other Party (Disclosing Party) or to which the Receiving Party is exposed during the relationship between the Parties, concerning the Disclosing Party's business, operations or activities, including without limitation any commercial information, know-how, data and/or documentation exchanged or received by the Disclosing Party. The Parties shall disclose such information only to those employees who require such knowledge of use in the ordinary course and scope of their employment under this agreement; provided that the Disclosing Party first advises each of its employees of the Disclosing Party's obligations under this section to maintain the confidentiality of the information.
- 6.2 The obligations and limitations set forth herein regarding Confidential Information will not apply to information that the Receiving Party can establish (i) is or becomes generally available to the public other than as a result of a breach of this

Agreement or other wrongful act or omission by the Receiving Party, (ii) is lawfully received from a third party which is not under a known obligation of confidentiality for the benefit of the Disclosing Party, (iii) was either in the possession of or known to the Receiving Party at the time of disclosure without any limitation on use or disclosure for the benefit of the Disclosing Party, or (iv) is independently developed by or for the Receiving Party without the use or benefit of the Disclosing Party's Confidential Information. In addition, a receiving party will not be restricted from disclosing Confidential Information as required pursuant to any law, regulation or judicial or governmental order, provided that any such disclosure will be limited to the extent of the legal requirement and the Receiving Party will promptly notify the Disclosing Party and cooperate with the Disclosing Party at the Disclosing Party's expense, so that it may intervene and object to such disclosure or seek a protective order or other appropriate protection. The Parties agree to hold each other's Confidential Information in confidence during the term of this agreement and for a period of one (1) year after termination of this agreement.

7. EFFECTIVE DATE, DURATION, ABANDONMENT, TERMINATION OF THE AGREEMENT

- 7.1 Unless terminated earlier in accordance with the terms hereof/OM, this Agreement shall be effective from the date of signing ("Effective Date") and shall be co-terminus with the termination/expiration of the Guarantee. In the event of earlier termination of this Agreement as provided herein below, the Guarantee issued pursuant to the terms hereof shall immediately cease to have any effect forthwith.
- 7.2 During the tenure of the Agreement, parties hereto can terminate the Agreement for material breach of any of the terms and conditions of this Agreement by giving a three-months notice in writing to the defaulting party, provided that in the event of breach, the defaulting party fails to rectify the breach within the notice period.
- 7.3 Any Party may terminate this Agreement if, at any time, the other Party shall file in any court or agency pursuant to any statute or regulation of any state or

country, a petition in bankruptcy or insolvency or for reorganization or for an arrangement or for the appointment of a receiver or trustee of the Party or of its assets, or if the other Party shall be served with an involuntary petition against it, filed in any insolvency proceeding, and such petition shall not be dismissed within sixty (60) days after the filing thereof, or if the other Party shall propose or be a party to any dissolution or liquidation, or if the other Party shall make an assignment for the benefit of creditors. Notwithstanding the bankruptcy of either Party, the other Party shall be entitled to retain the rights granted herein, subject to, and in accordance with, the remaining provisions of this Agreement.

8. FORCE MAJEURE

- 8.1 The parties shall not be liable for any damages, including liquidated damages, if any, for delay or inability to perform their obligations due to causes beyond their reasonable control, including but not limited to delay or inability to perform due to climatic or other weather related conditions or elements. Acts of India or the government of any other nation, province, State, territory or other political subdivision, acts of god, interference by civil or military authorities, fires, floods, epidemics, quarantine restrictions, embargoes, war, civil insurrection, commotion, riots or strikes, compliance with government laws, rules and regulations, delays in transit, or delivery beyond their control, inability to secure necessary governmental priorities for goods, materials, equipment or services or any fault beyond their control and not involving any fault on its part. Any of the events set forth in the preceding sentence is hereinafter referred to as "Force Majeure Condition". If a Force Majeure Condition occurs, as soon as reasonably practicable thereafter, the affected party shall immediately notify the other in writing advising such other parties of the nature and extent of the Force Majeure Condition, and collectively develop a plan to manage the Project under the current conditions until the Force Majeure Condition has ceased.

9. NOTICES

9.1 Any notice or other communication to be given under this Agreement shall be in writing and sent by registered AD post and may also be delivered by a courier agency of repute or in person or sent by fax to the relevant Party as follows:

a) For Implementing Agency (IA) at:

Attn. of:

Designation:

Address:

Fax no:

E-mail address:

b) For _____ (PFI) at:

Attn. of:

Designation:

Address:

Fax no:

E-mail address:

9.2 The Parties agree that the provision of this clause shall not apply to the service of any writ, summons, order, judgment or other document relating to or in connection with any legal proceedings.

10. AMENDMENTS TO THE AGREEMENT

10.1 No amendment or modifications of this Agreement shall be valid unless the same is made in writing by all the parties or their authorised representatives and specifically stating the same to be an amendment of this agreement. The modifications/changes shall be effective from the date on which they are made/executed unless otherwise agreed to.

10.2 The parties hereto agree that all activities in furtherance of this Agreement shall be in the form of written documents, signed by duly authorized representatives of the parties.

11. ASSIGNMENT OF THE AGREEMENT

Except for assignment to Affiliates, the rights and/or liabilities arising to any party to this Agreement shall not be assigned without the written consent of the other party and subject to such terms and conditions as may be mutually agreed upon. This Agreement shall be binding upon and inure to the benefit of _____ and _____ and their successors or assignees, provided that any such successor or assignee has acquired the controlling Interest, all the shares or assets of the predecessor by merger, purchase or otherwise. Otherwise, the rights and obligations set forth in this Agreement shall not be assignable or transferable without the prior consent in writing of the other Party hereto.

12. DISPUTE RESOLUTION

12.1 If any dispute or difference or claims of any kind arises between the Parties in connection with interpretation or application of any terms and conditions or any matter or thing in any way connected with or in connection with or arising out of this Agreement, or the rights, duties or liabilities of any Party under this Agreement and so notified in writing by either Party to the other Party (the “**Dispute**”), whether before or after the termination of this Agreement, then the Parties shall meet together promptly, at the request of any Party, in an effort to resolve such dispute, difference or claim by discussion between them.

12.2 Any person aggrieved by an order made by the Implementing Agency can approach to the Supervisory Committee constituted under PRGFEE.

12.3 Any person aggrieved, by an order made by an adjudicating officer or the Central Government or the State Government or any other authority under the Energy Conservation Act 2001, may prefer an appeal to the Appellate Tribunal for Energy Conservation established under Section 30 of the Energy Conservation Act, 2001. The person making appeal to Appellate Tribunal shall file the same in accordance with Appellate Tribunal for Energy Conservation (Procedure, Form, Fee and Record of Proceedings) Rules, 2012 notified vide G.S.R. 510 (E) dated 28th June 2012. The orders of the Appellate Tribunal would be final and binding to all the parties.

13. INDEMNITY

13.1 The Parties shall take due care that all its documents comply with all relevant laws and statutory regulations and ordinances, guidelines in force which includes all laws in force and effect as of the date hereof and which may be promulgated or brought into force and effect hereinafter in India including judgments, decrees, injunctions, writs of or orders of any court or record, as may be in force and effect during the subsistence of this Agreement applicable to the Parties.

13.2 In the event that any action by any of the Parties is found to be in violation of the laws of the land and the same cause the other Party to be prosecuted, fined or charge-sheeted in any manner then the Party responsible shall keep the other Party indemnified as to the extent of losses incurred by the other Party.

14. NON-DISCRIMINATION

Specifically, both institutions agree not to discriminate against any person because of age, ancestry, color, disability or handicap, origin, race, caste, religion. PFI shall abide by these principles in the administration of this agreement and neither institution shall impose criteria which would violate the principles of non-discrimination. Breach of this covenant may be regarded as a material breach of this Agreement and any related agreements.

15. USE OF NAME

Any use of the name BEE including any of its programs, related logos in advertisements, publications or notices relating in any way to the activities described in this Agreement shall be subject to the prior written approval of BEE.

16. SURVIVING RIGHTS

Expiration or termination of this Agreement shall not affect each Party's obligations to pay any amount accruing to the other Party under this Agreement while it was in effect. Further, the expiration or termination of this Agreement in its entirety shall not affect any rights or obligations of the Parties' under this Agreement that are intended to survive such expiration or termination. In addition, any other provision required for interpreting and enforcing the Parties' rights and obligations under this Agreement shall also survive, but only to the extent required for the full observation and performance of this Agreement. Termination of this Agreement in accordance with the provisions hereof shall not limit remedies, which may be otherwise available in law or equity.

17. WAIVER

The failure of either Party to enforce any provision of this Agreement at any time shall not be construed as a present or future waiver of such or any other provision of this Agreement. The express waiver by either Party of any provision or requirement hereunder shall neither be deemed to be original and be equally authentic.

18. ENTIRE AGREEMENT

This Agreement represents the entire agreement and understanding, as of the Effective Date, between the Parties with respect to the subject matter hereof and shall supersede

all prior agreements, negotiations, understanding, representations, statements, and writings between the Parties relating thereto. No modification, alteration, waiver or change in any term or provision of this Agreement shall be valid or binding upon the Parties unless made in writing and duly executed by each of the Parties. The Annexure appended hereto are hereby incorporated in, and form part of, this Agreement.

19. LAW AND JURISDICTION

This Agreement may be executed in two or more counterparts, each of which will contain the signature of the Parties, each of which shall be deemed an original and shall be equally authentic.

IN WITNESS WHEREOF THE PARTIES HERETO HAVE SIGNED THIS AGREEMENT AT NEW DELHI ON THE DAY AND YEAR HEREIN WRITTEN ABOVE

| | |
|---|---|
| <p>SIGNED, SEALED AND DELIVERED</p> <p>For and on behalf of</p> <p>Implementing Agency (IA)</p> <p>_____ (Signature)</p> <p>_____ (Name)</p> <p>_____ (Designation)</p> | <p>SIGNED, SEALED AND DELIVERED</p> <p>For and on behalf of</p> <p>_____</p> <p>(Participating Financial Institution)</p> <p>_____ (Signature)</p> <p>_____ (Name)</p> <p>_____ (Designation)</p> |
| <p>In the presence of:</p> <p>1.</p> <p>2.</p> | |

Appendix A

OPERATIONS MANUAL

Appendix B

PRGFEE RULES

ANNEXURE I

COPY OF THE LOAN AGREEMENT