

PROGRAMME AGREEMENT

For

**Implementation of National Programme on
ACC Battery Storage under the Production
Linked Incentive (PLI) Scheme**

PROGRAMME AGREEMENT

THIS PROGRAMME AGREEMENT is made on [•] at [•] by and between:

1. The Ministry of Heavy Industries, Government of India, having its principal offices at [•] (hereinafter referred to as the “**Government**” which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns) of **One Part**.

AND

2. [*insert name*], a company incorporated and registered under the (Indian) Companies Act 2013, with its corporate identity number [•] and having its registered office at [• *insert address*] (hereinafter referred to as the “**Beneficiary Firm**”, which expression shall, unless repugnant to the subject, context or meaning thereof, include its successors and permitted assigns) of **Other Part**.

“**Government**” and “**Beneficiary Firm**” hereinafter jointly referred to as the “**Parties**” and individually as the “**Party**”.

WHEREAS:

- A. The Government of India has launched and intends to implement the National Programme on Advance Chemistry Cell Battery Storage (“**Programme**”) in accordance with the terms and conditions to be set forth in this programme agreement along with such other announcements or notifications as may be initiated by the Government from time to time (the “**Agreement**”).
- B. The Government of India (“**GoI**”), pursuant to the Programme, seeks to obtain self-reliance in production of Advance Chemistry Cells and support indigenous manufacturing of Advance Chemistry Cells. To achieve this, GoI intends to develop greenfield giga-scale Advance Chemistry Cell manufacturing unit to ensure overall energy security for India in the long run.
- C. An enabling ecosystem is hereby facilitated for the bidders to make investments into setting-up of greenfield giga-scale Advance Chemistry Cell manufacturing facilities located in India (“**Project**”). The Project is aimed at assisting ongoing concerns of the indigenous manufacturing facilities.
- D. The Government had invited proposals by its request for proposal number [•] dated [•] (“**RFP**”) for short listing and selection of bidders to receive a Subsidy. A bidder selected through the RFP, to be eligible for this Subsidy, would have to commit to set-up an Advance Chemistry Cell manufacturing facility of a minimum of 5 (five) GWh capacity with Value-Addition of at least 25% (twenty-five per cent) within 2 (two) years from the Appointed Date at the Mother Unit level and at least 60% (sixty per cent) within 5 (five) years from the Appointed Date, at the Mother Unit level in case of an integrated unit, or at the Project level, in case of Hub and Spoke Structure, in conformity with the technical bid submitted in the RFP.
- E. The Government had shortlisted certain bidders including, *inter alia*, the {selected bidder/ consortium comprising,, and (collectively the “**Consortium**”) with

as its lead member (“**Lead Member**”)¹. After evaluation of the Bids received, the Government has issued its letter of award number [●] dated (hereinafter called the “**LOA**”) to [selected bidder/ Consortium] requiring, *inter alia*, the execution of this Agreement within 120 (one hundred and twenty) days of the date of issue thereof.

- F.** The selected bidder/Consortium has since promoted and incorporated the Beneficiary Firm as a limited liability company under the Companies Act 2013 and has requested the Government to accept the Beneficiary Firm as the entity which shall undertake and perform the obligations and exercise the rights of the {selected bidder/Consortium under the LOA} including the obligation to enter into this Agreement pursuant to the LOA for undertaking the Project.
- G.** {By its letter dated, the Beneficiary Firm has also joined in the said requirement of the selected bidder/ Consortium to the Government to accept it as the entity which shall undertake and perform the obligations and exercise the rights of the selected bidder/Consortium including the obligation to enter into this Agreement pursuant to the LOA. The Beneficiary Firm has further represented to the effect that it has been promoted by the selected bidder/Consortium for the purposes thereof}.
- H.** The Government has {agreed to the said request of the selected bidder/Consortium and the Beneficiary Firm and has} accordingly agreed to enter into this Agreement with the Beneficiary Firm for implementation of the Project, subject to and on the terms and conditions set forth hereinafter.

NOW, THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth in this Agreement, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

[Remainder of this page left intentionally blank]

¹ To be incorporated in case of a consortium.

ARTICLE 1
DEFINITIONS AND INTERPRETATION

1.1. Definitions

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

“**Advance Chemistry Cell/ACC**” shall have the meaning prescribed to it under Schedule – G.

“**Affected Party**” shall have the meaning as set forth in Clause 14.1.

“**Applicable Law**” shall mean all laws, brought into force and effect by the Government of India or the relevant state government including rules, regulations, and notifications made there under, and judgements, decrees, injunctions, writs, and order of any court of record, applicable to this Agreement and the exercise, performance and discharge of the respective rights and obligations of the Parties hereunder, as may be in force and effect during the subsistence of this Agreement.

“**Applicable Permits**” means all clearances, licenses, permits, authorisations, no objection certificates, consents, approvals, and exemptions required to be obtained or maintained under Applicable Laws in connection with the construction, operation, and maintenance of the Project or in connection with discharge of obligations, during the subsistence of this Agreement.

“**Appointed Date**” shall have the meaning as set forth in Clause 2.1.

“**Associate**” shall mean, in relation to either Party {and/or the Lead Member}, a person who controls, is controlled by or is under the common control with such Party {or the Lead Member} (as used in this definition, the expression “control” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person, whether by operation of law or by contract or otherwise.).

“**Beneficiary Firm Default Notice**” shall have the meaning as set forth in Clause 16.2.1.

“**Beneficiary Firm Event of Default**” shall have the meaning as set forth in Clause 16.1.1.

“**Beneficiary Firm Termination Notice**” shall have the meaning as set forth in Clause 16.2.2.

“**Bid**” means the documents in their entirety comprised in the bid submitted by the bidder in response to the RFP in accordance with the provisions thereof.

“**Bid Security**” means the security provided by the bidder to the Government along with the Bid for a sum of INR 10,00,00,000 (Rupees ten crore) for the overall Committed Capacity, in

accordance with the RFP, which shall remain in force until substituted by the Performance Security.

“Change in Law” means the occurrence of any of the following events after the Bid Due Date:

- (a) the enactment of any new Indian law as applicable to the state;
- (b) the repeal, modification, or re-enactment of any existing Indian law as applicable to the state;
- (c) the commencement of any Indian law, as applicable to the state, which has not entered into effect until the date of the Bid;
- (d) a change in the interpretation or application of any Indian law by judgement of a court of record which has become final, conclusive and binding, as compared to such interpretation or application by a court of record prior to the date of the Bid; or
- (e) any change in the rates of any of the Taxes that have a direct effect on the Project.

“Change in Ownership” means a transfer of the direct and/or indirect legal or beneficial ownership of any shares, or securities convertible into shares or a fresh issue of any of the foregoing, that causes the aggregate holding of the {selected bidder/ Lead Member}, in the total equity to decline below 26% (twenty-six per cent) thereof.

“Committed Capacity” shall mean the production capacity allocated to the Beneficiary Firm by the Government, subject to selection under the RFP.

“Committed Value Addition” shall mean the percentage of Value Addition allocated to the Beneficiary Firm by the Government, subject to selection under the RFP.

“Conditions Precedent” shall have the meaning as set forth in Article 4.

“Consortium” shall have the meaning as set forth in Recital E.

“Construction Plan” shall mean a schematic overview of key activities to be carried out by the Beneficiary Firm for the development of the Project and shall include details including without limitation, timelines for completion of the Project (as detailed in Schedule – K).

“Contractor” means the person or persons, as the case may be, with whom the Beneficiary Firm has entered into any of the construction contracts, the operation and maintenance contract any other material contract for construction, operation and/or maintenance of the Project, as the case may be, or matters incidental thereto, but does not include a person who has entered into an agreement for providing financial assistance to the Beneficiary Firm.

“Damages” shall mean any, and all deduction in Subsidy to be disbursed by the Government to the Beneficiary Firm.

“**Dispute**” shall have the meaning as set forth in Clause 17.1.

“**Dispute Resolution Procedure**” shall mean the dispute resolution process set out in Article 17.

“**Execution Date**” shall mean the date of signing of this Agreement.

“**Financial Year**” shall mean the year commencing from the first day of April and ending on thirty first day of March of the next calendar year.

“**Force Majeure**” or “**Force Majeure Event**” shall have the meaning as set forth in Clause 14.1.

“**Force Majeure Costs**” shall have the meaning as set forth in Clause 14.5.2.

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

“**Government Instrumentality**” means any department, division or sub-division of the Government of India or the relevant state government and includes any commission, board, authority, agency or municipal and other local authority or statutory body, including Panchayat, under the control of the Government of India or the relevant state government, as the case may be, and having jurisdiction over all or any part of the Project, or the performance of all or any of the obligations of the Beneficiary Firm under or pursuant to this Agreement.

“**GST**” means Goods and Services Tax, as notified by the Department of Revenue, Ministry of Finance and the relevant state government.

“**Hub and Spoke Structure**” shall mean an arrangement wherein new and/or existing indigenous manufacturers provide raw material or intermediate goods to the Mother Unit.

“**Independent Engineer**” shall have the meaning set forth in Article 9.

“**Insolvency Event**” in respect of a Party means:

- (a) such Party has (A) applied for or consented to the appointment of, or the taking of possession by, a receiver, custodian, trustee, administrator, liquidator or the like of itself or of all or a substantial part of its assets or business; (B) been unable to pay its debts as such debts become due; (C) enters into a compromise arrangement with its creditors; (D) an attachment or restraint has been levied on the assets of such entity Party which materially affects such Party’s ability to perform its obligations under this Agreement; (E) commenced proceedings under the (Indian) Insolvency and Bankruptcy Code 2016 (“**Code**”); (F) filed a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of

debts; or (G) taken any corporate or other action for the purpose of effecting any of the foregoing; or

- (b) a proceeding or case has been commenced without the application or consent of such Party in any court of competent jurisdiction seeking (A) its liquidation, reorganization, dissolution or winding-up or the composition or readjustment of debts or, (B) the appointment of an insolvency resolution professional, a trustee, receiver, custodian, administrator, liquidator or the like of such Party under the Code and an order admitting the insolvency petition has been passed in such proceeding and such order has not been stayed or dismissed within a period of 90 (ninety) days or (C) directions with the same or similar effect happen under the provisions of the Companies Act 2013 or the Code in relation to the winding up of the company.

“Inspection Report” shall have the meaning as set forth in Clause 12.1.

“Investment” shall mean:

Expenditure incurred on Plant, Machinery, Equipment and Associated Utilities: This shall include expenditure on plant, machinery, equipment, and associated utilities as well as tools, dies, moulds, jigs, fixtures (including parts, accessories, components, and spares thereof) of the same, used in the design, manufacturing, assembly, testing, packaging, or processing of any of the Advance Chemistry Cell). It shall also include expenditure on packaging, freight / transport, insurance, and erection and commissioning of the plant, machinery, equipment, and associated utilities. For the avoidance of doubt, associated utilities would include captive power and effluent treatment plants, essential equipment required in operations areas such as clean rooms, air curtains, temperature and air quality control systems, compressed air, water and power supply, and control systems. Associated utilities further include IT and ITES infrastructure. It is clarified that all non-creditable taxes and duties would be included in such expenditure.

Expenditure incurred on Research and Development (R&D): Capital expenditure on R&D and product development related to Advance Chemistry Cell. The term “related” shall refer to all stages in the entire value chain of the goods proposed to be manufactured including the Advance Chemistry Cell and their functioning. Such expenditure shall include expenditure on in-house and captive R&D, including all stages in the entire value chain of the goods proposed to be manufactured including hardware integral to the functioning of the same. Such expenditure shall include test and measuring instruments, prototypes used for testing, purchase of design tools, software cost (directly used for R&D) and license fee, expenditure on technology, IPR, Patents and Copyrights for R&D/ all non-creditable taxes and duties would be included in such expenditure.

Expenditure related to Transfer of Technology (ToT) Agreements: This shall include cost of technology and initial technology purchase related to goods required for the Advance Chemistry Cell manufacturing. All non-creditable taxes and duties would be included in such expenditure.

It is expressly clarified that Investment shall, for the purpose of the Programme Agreement, be limited to expenditure incurred by the Beneficiary Firm in respect of the Mother Unit on and from the Appointed Date.

“**Lead Member**” shall have the meaning as set forth in Recital E.

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

“**Milestones**” shall mean Milestone 1 and Milestone 2.

“**Milestone 1**” shall mean the achievement by the Beneficiary Firm of: (a) Investment of INR 225,00,00,000 (Rupees two hundred and twenty-five crore) per GWh (excluding the cost of land) for the Committed Capacity specified by the bidder at the end of 2 (two) years from the Appointed Date; and (b) 25% (twenty-five per cent) Value Addition of the Advance Chemistry Cell, within 2 (two) years from the Appointed Date.

“**Milestone 2**” shall mean the completion of 60% (sixty per cent) of the overall Value Addition, within 5 (five) years from the Appointed Date.

“**Milestone Completion Certificate**” shall have the meaning as set forth in Clause 12.3.

“**Milestone 1 Completion Certificate**” shall mean the certificate issued by the Independent Engineer on the achievement of Milestone 1.

“**Milestone 2 Completion Certificate**” shall mean the certificate issued by the Independent Engineer on the achievement of Milestone 2.

“**Mother Unit**” shall mean the single-roof establishment with respect to which the Beneficiary Firm shall be required to meet all its obligations under this Agreement, including, but not limited to, the Investment of at least INR 225,00,00,000 (Rupees two hundred and twenty five crore) per GWh, (excluding the cost of land) and at least 25% (twenty five per cent) Value Addition of the Advance Chemistry Cell within 2 (two) years from the Appointed Date, and achievement of the entire Committed Capacity within 5 (five) years from the Appointed Date.

“**Performance Security**” shall have the meaning as set forth in Clause 7.1.1.

“**Project**” shall have the meaning as set forth in Recital C, in accordance with the Committed Capacity submitted by the bidder in the Bid.

“**RFP**” shall mean the Request of Proposal issued by the Government, dated [●].

“**Subsidy**” shall mean financial aid or support granted by the Government to the Beneficiary Firm in accordance with terms of this Agreement.

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

“**Term**” shall have the meaning as set forth in Clause 2.1.

“**Testing Standards**” shall mean a standardized framework for the desired performance output set forth in Schedule – D.

“**Tripartite Agreement**” shall mean the agreement to extend support and provide additional incentives for implementation of the Project, through executing a tripartite agreement between the Government, relevant state government, and the Beneficiary Firm.

“**Value Addition**” shall mean the manufacturing activity (to manufacture Advance Chemistry Cell) being undertaken in India, by the Beneficiary Firm either on its own or through indigenous manufacturers, as described in Schedule -M.

1.2. Interpretation

1.2.1 In this Agreement, unless the context otherwise requires,

- (a) references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;
- (b) references to laws of the state, laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;
- (c) references to a “**person**” and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of 2 (two) or more of the above and shall include successors and assigns;
- (d) the table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;
- (e) the words “**include**” and “**including**” are to be construed without limitation and shall be deemed to be followed by “**without limitation**” or “**but not limited to**” whether or not they are followed by such phrases;
- (f) references to “**construction**” or “**building**” include unless the context otherwise requires, investigation, design, developing, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction, and “**construct**” or “**build**” shall be construed accordingly;

- (g) any reference to any period of time shall mean a reference to that according to Indian Standard Time;
- (h) any reference to “**hour**” shall mean a period of 60 (sixty) minutes commencing either on the hour or on the half hour of the clock, which by way of illustration means 5.00 (five), 6.00 (six), 7.00 (seven) and so on being hours on the hour of the clock and 5.30 (five thirty), 6.30 (six thirty), 7.30 (seven thirty) and so on being hours on the half hour of the clock;
- (i) any reference today shall mean a reference to a calendar day;
- (j) reference to a “**business day**” shall be construed as reference to a day (other than a Sunday and public holiday) on which banks in Delhi are generally open for business;
- (k) any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;
- (l) any reference to “**quarter**” shall mean a reference to the period of 3 (three) months commencing from April 1, July 1, October 1, and January 1, as the case may be;
- (m) any reference to any period commencing “**from**” a specified day or date and “**till**” or “**until**” a specified day or date shall include both such days or dates, provided that if the last day of any period computed under this Agreement is not a business day, then the period shall run until the end of the next business day;
- (n) the words importing singular shall include plural and vice versa;
- (o) “**lakh**” means a hundred thousand (1,00,000) and “**crore**” means ten million (10,000,000);
- (p) save and except as otherwise provided in this Agreement, any reference, at any time, to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other documents as amended, varied, supplemented, modified or suspended at the time of such reference, provided that this sub-clause (q) shall not operate so as to increase liabilities or obligations of the Government hereunder or pursuant hereto in any manner whatsoever;
- (q) any agreement, consent, approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party shall be valid and effective only if it is in writing under the hand of a duly authorised representative of such Party in this behalf and not otherwise;
- (r) the Schedules, Annexures and Recitals to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;
- (s) references to Recitals, Articles, Clauses, Sub-clauses, Provisos or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-clauses, Provisos and Schedules of or to this Agreement; reference to an Annex shall, subject to anything to the contrary specified

therein, be construed as a reference to an Annex to the Schedule in which such reference occurs; and reference to a Paragraph shall, subject to anything to the contrary specified therein, be construed as a reference to a Paragraph of the Schedule or Annex, as the case may be, in which such reference appears; and

- (t) time shall be of the essence in the performance of the Parties' respective obligations. If any time period specified herein is extended, such extended time shall also be of the essence.

1.2.2 Unless expressly provided otherwise in this Agreement, any documentation required to be provided or furnished by the Beneficiary Firm to the Government shall be provided free of cost and in 3 (three) copies, and if the Government is required to return any such documentation with their comments and/or approval, they shall be entitled to retain 2 (two) copies thereof.

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

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

1.3 Measurements and arithmetic conventions

All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5 (five) being rounded down, provided that the drawings, engineering dimensions, and tolerances may exceed 2 (two) decimal places as required.

1.4 Priority of agreements, clauses, and schedules

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

- (a) this Agreement;
- (b) Tripartite Agreement; and
- (c) all other agreements and documents forming part hereof or referred to herein, i.e., the Agreement at (a) above shall prevail over the agreements and documents at (b).

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

- (a) between 2 (two) or more Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;

- (b) between the Clauses of this Agreement and the Schedules, the Clauses shall prevail and between Schedules and Annexes, the Schedules shall prevail;
- (c) between any 2 (two) Schedules, the Schedule relevant to the issue shall prevail; and
- (d) between any value written in numerals and that in words, the latter shall prevail.

ARTICLE 2

TERM

- 2.1** This Agreement shall come into force and effect from the date on which the Conditions Precedent listed in Article 4 of this Agreement have been satisfied or waived (“**Appointed Date**”). This Agreement shall, unless terminated earlier in accordance with its terms, remain valid for a period of 7 (seven) years from the Appointed Date (“**Term**”).

ARTICLE 3
SCOPE OF WORK

3.1 The Beneficiary Firm shall be responsible to:

- (a) establish a Project to manufacture Advance Chemistry Cell as quoted by the selected bidder in its technical bid (as provided in Schedule-M) and make an Investment of minimum INR 225,00,00,000 (Rupees two hundred and twenty five crore) per GWh (excluding the cost of land) for the Committed Capacity specified by the bidder in relation to the Project;
- (b) ensure Value Addition to be at least 25% (twenty-five per cent) at the Mother Unit level within 2 (two) years from the Appointed Date and minimum 60% (sixty per cent) of the overall Value Addition, within 5 (five) years from the Appointed Date; and
- (c) perform and fulfil all other obligations of the Beneficiary Firm 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 Beneficiary Firm under this Agreement.

ARTICLE 4
CONDITIONS PRECEDENT

- 4.1** The respective rights and obligations of the Parties under this Agreement shall be subject to the satisfaction of the conditions precedent specified in this Article 4 (“**Conditions Precedent**”). Provided, however, that a Party may grant waiver from satisfaction of any Condition Precedent by the other Party in accordance with the provisions of Clauses 4.2 and 4.3, as the case may be, and to the extent of such waiver, that Condition Precedent shall be deemed to be fulfilled for the purpose of this Article 4.
- 4.2** The Beneficiary Firm may, upon providing the Performance Security to the Government in accordance with this Agreement, by notice require the Government to satisfy the Condition Precedent set forth in this Clause 4.2 within 120 (one hundred twenty) days of the notice, and the Condition Precedent required to be satisfied by the Government prior to the Appointed Date shall be deemed to have been fulfilled when the Government shall have executed the Tripartite Agreement with the Beneficiary Firm and the relevant state government.
- 4.3** The Conditions Precedent to be fulfilled by the Beneficiary Firm within the time specified below or where no time period is specified, within 120 (one hundred twenty) days from the Execution Date shall be deemed to have been fulfilled when Beneficiary Firm shall have:
- (a) executed the Tripartite Agreement with the Government and the relevant state government;
 - (b) provided the Performance Security within 30 (thirty) days; and
 - (c) provided a Construction Plan within 90 (ninety) days.
- 4.4** Each Party shall make all reasonable endeavours to satisfy the Conditions Precedent within the time stipulated and shall provide the other Party with such reasonable cooperation as may be required to assist the Party in satisfying the Conditions Precedent for which that Party is responsible.
- 4.5** Subject to the terms and conditions specified herein above, if either Party fails to achieve the Conditions Precedent within the prescribed period under Clause 4.2 and 4.3, and such failure is not on account of the default of other Party or Force Majeure Event, then such Party shall be entitled to extension of the time period by 60 (sixty) days or such additional time period as agreed by the other Party, for fulfilment of respective Condition Precedent. The Beneficiary Firm shall be entitled to an extension of the time stipulated for executing of the Tripartite Agreement if such execution has been delayed solely on account of an act or omission on the part of the Government and/ or the relevant state government, as the case may be.
- 4.6** The Parties agree that the date on which all the Conditions Precedent are satisfied or waived, as the case may be, shall be the Appointed Date. If the Parties are not able to fulfil the Conditions Precedent or if the Conditions Precedent are not waived as per the timelines stated above, this Agreement shall cease to be effective and binding on the Parties and the Parties shall have no further liabilities or obligations towards each other.

4.7 Damages for delay by the Government

In the event that (i) the Government does not procure fulfilment or waiver of the Conditions Precedent set forth in Clause 4.2 within the period specified in respect thereof, and (ii) the delay has not occurred as a result of breach of this Agreement by the Beneficiary Firm or due to Force Majeure, the Term of this Agreement shall be extended for a day-to-day basis till the Government satisfies such Condition Precedent. It is expressly clarified and agreed that the Government shall not be liable for payment of any liquidated damages for delay in fulfilling its Conditions Precedent set forth in Clause 4.2.

4.8 Damages for delay by the Beneficiary Firm

In the event that (i) the Beneficiary Firm does not procure fulfilment or waiver of any or all of the Conditions Precedent set forth in Clause 4.3 within the period specified in that Clause, and (ii) the delay has not occurred as a result of breach of this Agreement by the Government or due to Force Majeure, the Beneficiary Firm shall pay to the Government, liquidated damages in an amount calculated at the rate of 0.1% (zero point one per cent) of the Performance Security for each day's delay until the fulfilment or waiver of such Conditions Precedent, subject to a maximum amount equal to the Bid Security, and upon reaching such maximum amount, the Government, in its sole discretion and subject to the provisions of Clause 7.2, shall additionally have the right to terminate the Agreement. Provided that in the event of delay by the Government in procuring fulfilment or waiver of the Conditions Precedent specified in Clause 4.2, no liquidated damages shall be due or payable by the Beneficiary Firm under this Clause 4.8 until the date on which the Government shall have procured fulfilment or waiver of the Conditions Precedent specified in Clause 4.2.

4.9 Deemed termination upon delay

Without prejudice to the provisions of Clauses 4.7 and 4.8, and subject to the provisions of Clause 7.2, the Parties expressly agree that in the event the Appointed Date does not occur, for any reason whatsoever, before the 1st (first) anniversary of the date of this Agreement or the extended period provided in accordance with this Agreement, all rights, privileges, claims and entitlements of the Beneficiary Firm under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Beneficiary Firm, and the Agreement shall stand automatically terminated, and will be deemed to have been terminated by mutual agreement of the Parties. Provided, however, that in the event the delay in occurrence of the Appointed Date is for reasons attributable to the Beneficiary Firm, the Performance Security of the Beneficiary Firm shall be encashed and appropriated by the Government as liquidated damages thereof.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES

5.1 Representations and warranties of Beneficiary Firm

The Beneficiary Firm represents and warrants to the Government that:

- (a) it is duly organised and validly existing under the laws of India, and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- (b) it has taken all necessary corporate and other actions under Applicable Laws to authorise the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
- (c) it has the financial standing and capacity to undertake the Project in accordance with the terms of this Agreement, including requisite technological know-how;
- (d) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement will be legally valid, binding and enforceable obligations against it in accordance with the terms hereof;
- (e) it is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising there under including any obligation, liability, or responsibility hereunder;
- (f) the information furnished in the Bid and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement;
- (g) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its memorandum and articles of association {or those of the selected bidder / any member of the Consortium} or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
- (h) there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;
- (i) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Instrumentality which may result in any Material Adverse Effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;

- (j) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a Material Adverse Effect on its ability to perform its obligations under this Agreement;
- (k) it shall at no time undertake or permit any Change in Ownership; and that the {selected bidder/ Lead Member}, shall hold not less than 26% (twenty-six per cent) of its issued and paid up equity from the date hereof until the Appointed Date and on a continuing basis for a period of 5 (five) years from the Appointed Date of this Agreement;
- (l) {the selected bidder/ members of the Consortium or Lead Member} have the financial standing and resources to fund the required equity and to raise the debt necessary for undertaking and implementing the Project in accordance with this Agreement;
- (m) {the selected bidder/ each member of the Consortium} is duly organised and validly existing under the laws of the jurisdiction of its incorporation, and has requested the Government to enter into this Agreement with the Beneficiary Firm pursuant to the LOA, and has agreed to and unconditionally accepted the terms and conditions set forth in this Agreement;
- (n) no representation or warranty by it contained herein or in any other document furnished by it to the Government or to any Government Instrumentality in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;
- (o) no sums, in cash or in kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the Agreement or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Government in connection therewith; and
- (p) all information provided by the {selected bidder/ members of the Consortium} in response to the RFP is to the best of its knowledge and belief, true and accurate in all material respects.

5.2 Representations and warranties of the Government

The Government represents and warrants to the Beneficiary Firm that:

- (a) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement;
- (b) it has taken all necessary actions under Applicable Laws to authorise the execution, delivery, and performance of this Agreement;
- (c) it has the financial standing and capacity to perform its obligations under this Agreement;

- (d) this Agreement constitutes a legal, valid, and binding obligation enforceable against it in accordance with the terms hereof;
- (e) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any Material Adverse Effect on the Government's ability to perform its obligations under this Agreement; and
- (f) it has complied with Applicable Laws in all material respects.

5.3 Disclosure

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

ARTICLE 6
OBLIGATIONS OF THE PARTIES

6.1 Obligations of the Government

- 6.1.1 The Government shall, at its own cost and expense undertake, comply with, and perform all its obligations set out in this Agreement or arising hereunder:
- 6.1.2 The Government agrees to provide assistance and support to the Beneficiary Firm on the following, subject to and in accordance with the provisions of this Agreement and Applicable Laws:
- (a) upon written request from the Beneficiary Firm, and subject to the Beneficiary Firm complying with Applicable Laws, provide reasonable support and assistance in procuring the Applicable Permits required from any Government Instrumentality for setting up and operation of the Project;
 - (b) upon written request from the Beneficiary Firm, provide reasonable support and assistance to the Beneficiary Firm in obtaining access to all necessary infrastructure facilities and utilities; and
 - (c) support, cooperate with and facilitate the Beneficiary Firm in the implementation and operation of the Project in accordance with the provisions of this Agreement and Applicable Laws.
- 6.1.3 The Government agrees to disburse Subsidy, as specified in Schedule - B, to the Beneficiary Firm, in accordance with Clause 11.2.
- 6.1.4 The Government shall authorize representatives to inspect the certificates provided by the Beneficiary Firm validating the Value Addition and Committed Capacity.

6.2 Obligations of the Beneficiary Firm

- 6.2.1 The Beneficiary Firm shall establish a Project to manufacture Advance Chemistry Cell as per the technical bid submitted by the selected bidder in its Bid and as provided in Schedule - M, and requirements under the RFP.
- 6.2.2 Subject to and on the terms and conditions of this Agreement, the Beneficiary Firm shall, at its own cost and expense, procure finance, operate and maintain the Project and observe, fulfill, comply with and perform all its obligations set out in this Agreement or arising hereunder.
- 6.2.3 The Beneficiary Firm shall comply with all Applicable Laws and Applicable Permits requirements (including renewals as required) including but not limited to those specified in Schedule – A (which includes an indicative list of approvals required to be obtained by the Beneficiary Firm), in the performance of its obligations under this Agreement.
- 6.2.4 The Beneficiary Firm shall achieve completion of the Committed Capacity within 2 (two) years from the Appointed Date. The Beneficiary Firm further agrees that it shall achieve the target

Value Addition, as specified in the Bid, which shall in no case be below 60% (sixty per cent) within 5 (five) years from the Appointed Date.

- 6.2.5 The Beneficiary Firm shall furnish to the Government, a certificate by its statutory auditor certifying that it has met its Investment requirements in accordance with this Agreement.
- 6.2.6 The Beneficiary Firm shall ensure that it shall achieve not less than 25% (twenty-five) per cent Value Addition of the Advance Chemistry Cell and a minimum of INR 225,00,00,000 (Rupees two hundred and twenty-five crore) per GWh of Investment at the Mother Unit, within 2 (two) years from the Appointed Date. In the event that the Beneficiary Firm does not achieve the Value Addition and / or minimum Investment or Milestone 1 Completion Certificate within the stipulated period, and the delay has not occurred as a result of breach of this Agreement by the Government or due to Force Majeure, the Beneficiary Firm shall pay to the Government, liquidated damages in an amount calculated at the rate of 0.1% (zero point one per cent) of the Performance Security for each day's delay until the achievement of the above obligations.
- 6.2.7 The Beneficiary Firm agrees that it shall achieve the Committed Capacity and overall Value Addition at the Mother Unit level within 5 (five) years from the Appointed Date. In the event that the Beneficiary Firm does not achieve the Committed Capacity and overall Value Addition at the Mother Unit level within the stipulated time period, and the delay has not occurred as a result of breach of this Agreement by the Government or due to Force Majeure, the Beneficiary Firm shall pay to the Government, liquidated damages in an amount calculated at the rate of 0.1% (zero point one per cent) of the Performance Security for each day's delay until the achievement of the aforementioned obligations. The Parties agree that the Government shall have the right to terminate this Agreement if the Beneficiary Firm fails to achieve any of the conditions specified in this Clause 6.2.7, for a period exceeding 18 (eighteen) months from the dates specified hereinabove.
- 6.2.8 The Beneficiary Firm acknowledges that notwithstanding anything to the contrary in this Agreement, payment of Subsidy shall commence once the Beneficiary Firm achieves the Milestone 1 Completion Certificate, in accordance with the provisions of this Agreement.
- 6.3 The Parties agree that failure of Beneficiary Firm to achieve the Milestones in accordance with the provisions of this Agreement will entitle the Government to levy Damages, and the Government shall have the right including but not limited to: (a) forfeiture of the entire incentive, in which case the Beneficiary Firm shall not be entitled to receive any further amounts in the form of Subsidy; and (b) appropriation of the Performance Security.
- 6.4 The Beneficiary Firm shall, after the Appointed Date, submit a quarterly progress report to the Government, in accordance with Schedule - K and shall include information on the progress in construction of the Project and the reasons for delay in construction of the Project, if any.

ARTICLE 7
PERFORMANCE SECURITY

7.1 Performance Security

- 7.1.1 The Beneficiary Firm shall, for the performance of its obligations hereunder, till the expiry or early termination of this Agreement, provide to the Government no later than 30 (thirty) days from the date of this Agreement, an irrevocable and unconditional guarantee from a bank for a sum equivalent to INR [●]² in the form set forth in Schedule - F (the “**Performance Security**”). Until such time the Performance Security is provided by the Beneficiary Firm pursuant hereto and the same comes into effect, the Bid Security shall remain in force and effect, and upon such provision of the Performance Security pursuant hereto, the Government shall release the Bid Security to the Beneficiary Firm.
- 7.1.2 The Parties agree that the Performance Security for 5 GWh of the Committed Capacity shall be INR 50,00,00,000 (Rupees fifty crore), the Performance Security for up to 10 GWh of the Committed Capacity shall not exceed INR 75,00,00,000 (Rupees seventy five crore), the Performance Security for up to 15 GWh of the Committed Capacity shall not exceed INR 100,00,00,000 (Rupees one hundred crore), and the Performance Security for up to 20 GWh of the Committed Capacity shall not exceed INR 125,00,00,000 (Rupees one hundred and twenty five crore).
- 7.1.3 Notwithstanding anything to the contrary contained in this Agreement, in the event Performance Security is not provided by the Beneficiary Firm in accordance with the provisions of this Agreement, the Government may encash the Bid Security and appropriate the proceeds thereof as Damages, and thereupon all rights, privileges, claims and entitlements of the Beneficiary Firm or under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Beneficiary Firm, and this Agreement shall be deemed to have been terminated by mutual agreement of the Parties.

7.2 Appropriation of Performance Security

- 7.2.1 Upon occurrence of Beneficiary Firm Event of Default, the Government shall, without prejudice to its other rights and remedies hereunder or under Applicable Law, be entitled to encash and appropriate from the Performance Security the amounts due to it for and in respect of such Beneficiary Firm Event of Default.
- 7.2.2 Upon such encashment and appropriation from the Performance Security, the Beneficiary Firm shall, within 15 (fifteen) days thereof, replenish, in case of partial appropriation, to its original level the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, and the Beneficiary Firm shall, within the time so granted, replenish or furnish fresh Performance Security as aforesaid, failing which the Government shall be entitled to terminate this Agreement. Upon such replenishment or

² **Note:** Performance Security of the applicant company shall be 5% * INR 900 crore/GWh * overall ACC Value Addition * Number of GWh (Committed Capacity), subject to the following ceiling: INR 50 Crore for 5 GWh; INR 75 Crore up to 10 GWh and INR 100 Crore up to 15 GWh and INR 125 Crore up to 20 GWh of annual ACC committed production capacity.

furnishing of a fresh Performance Security, as the case may be, the Beneficiary Firm shall be entitled to an additional cure period of 90 (ninety) days for remedying the Beneficiary Firm Event of Default or for satisfying any Conditions Precedent, and in the event of the Beneficiary Firm not curing its default within such cure period, the Government shall be entitled to encash and appropriate such Performance Security as damages, and terminate this Agreement.

7.3 Release of Performance Security

The Performance Security shall remain in force and effect till the Term of this Agreement and shall be returned to the Beneficiary Firm thereafter.

ARTICLE 8
CONSTRUCTION OF THE PROJECT AND MANUFACTURE OF ADVANCE
CHEMISTRY CELL

8.1 The Beneficiary Firm shall establish the Project to manufacture Advance Chemistry Cell as per the Committed Capacity submitted by the selected bidder in its Bid, as detailed in Schedule - M. The Beneficiary Firm shall also achieve the Milestones in accordance with the terms of this Agreement.

8.2 Committed Capacity

If the Beneficiary Firm fails to achieve the Committed Capacity as specified in Schedule - M, the Government shall have the right to deduct from the Subsidy payable under Clause 11.1, 2 (two) times the Subsidy due and payable corresponding to the shortfall in the Committed Capacity.

By way of illustration and for the avoidance of doubt, the deduction in the Subsidy shall be computed as follows:

If the Committed Capacity is 10 GWh, and the Beneficiary Firm achieves production / sale of 8 GWh, the Government shall deduct Subsidy payable for $2 * (10 - 8) = 4$ GWh. The Beneficiary Firm would, under such circumstance, be paid Subsidy for $(10 - 4) = 6$ GWh of capacity, notwithstanding commissioning of 8 GWh.

8.3 Committed Value Addition

If the Beneficiary Firm fails to achieve the Committed Value Addition as specified in Schedule - M, the Damages shall be estimated by determining the deficit in the Committed Value Addition and the actual Value Addition achieved. This deficit shall be deducted from the Subsidy for the quarter where any such shortfall has been determined. If the deficit is not fulfilled within the immediately subsequent quarter, such Damages may be carried forward to subsequent quarters, until the deficit is adjusted.

By way of illustration and for the avoidance of doubt, the deduction in the Subsidy shall be computed as follows:

If the Beneficiary Firm commits 80% (eighty per cent) Value Addition in its Bid but only meets 70% (seventy per cent) at the end of the quarter, then there will be a retrenchment in the Subsidy paid by the Government. The retrenchment amount shall be Subsidy of 80% (eighty per cent) Value Addition (i.e., the Committed Value Addition) subtracted from Subsidy of 70% (seventy per cent) Value Addition (i.e., the actual Value Addition met by the Beneficiary Firm). This amount will be deducted from the Subsidy to be disbursed in the same quarter as way of Damages.

8.4 The Parties agree that in case the Beneficiary Firm fails to achieve the Milestone as mentioned under Clause 8.1 and/or the Value Addition as submitted by the selected bidder in the Bid; and the Government deducts Damages pursuant to this Article 8 for 6 (six) consecutive quarters, the

Government shall have the right to discontinue payment of any Subsidy and appropriate the Performance Security and the same shall amount to Beneficiary Firm Event of Default.

ARTICLE 9
INDEPENDENT ENGINEER

9.1 Appointment of Independent Engineer

The Government shall appoint a consulting firm from a panel of firms or bodies corporate, constituted by the Government substantially in accordance with the selection criteria set forth in Schedule - L, to be the independent consultant under this Agreement (the “**Independent Engineer**”). The appointment shall be made within 90 (ninety) days from the Appointed Date or any other date as notified by the Government and shall be for the Term of this Agreement. The Government may in its discretion appoint another firm from a fresh panel constituted pursuant to Schedule-L to be the Independent Engineer.

9.2 Role and functions

The role and functions of the Independent Engineer shall include the following:

- (a) review and certify that the Beneficiary Firm has met its Committed Capacity;
- (b) inspection of the Advance Chemistry Cells manufactured at the Project site; and
- (c) undertaking all other duties and functions, as required by the Government, in accordance with the terms of the Agreement.

The Independent Engineer shall discharge its duties in a fair, impartial, and efficient manner, consistent with the highest standards of professional integrity and Good Industry Practice. The Government shall share the detailed roles and responsibilities of the Independent Engineer with the Beneficiary Firm, subsequent to the appointment of the Independent Engineer.

9.3 Remuneration

The remuneration, cost and expenses of the Independent Engineer shall be paid by the Government.

9.4 Termination of appointment

9.4.1 The Government may, in its discretion, terminate the appointment of the Independent Engineer at any time, but only after appointment of another Independent Engineer in accordance with Clause 9.1.

9.4.2 If the Beneficiary Firm has reason to believe that the Independent Engineer is not discharging its duties and functions in a fair, efficient, and diligent manner, it may make a written representation to the Government and seek termination of the appointment of the Independent Engineer. Upon receipt of such representation, the Government shall hold a tripartite meeting with the Beneficiary Firm and Independent Engineer for an amicable resolution of the Dispute, and if any difference or disagreement between the Government and the Beneficiary Firm remains unresolved, the Dispute shall be settled in accordance with the Dispute Resolution Procedure. In the event that the appointment of the Independent Engineer is terminated hereunder, the Government shall appoint forthwith another Independent Engineer in accordance with Clause 9.1.

9.5 Authorised signatories

The Government shall require the Independent Engineer to designate and notify to the Government and the Beneficiary Firm up to 2 (two) persons employed in its firm to sign for and on behalf of the Independent Engineer, and any communication or document required to be signed by the Independent Engineer shall be valid and effective only if signed by any of the designated persons, provided that the Independent Engineer may, by notice in writing, substitute any of the designated persons by any of its employees.

9.6 Dispute resolution

If either Party disputes any advice, instruction, decision, direction, or award, as the case may be, of the Independent Engineer, the Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

ARTICLE 10
DISBURSEMENT OF SUBSIDY BY THE GOVERNMENT

- 10.1** The Government shall disburse Subsidy to the Beneficiary Firm, in accordance with the terms of this Agreement. Upon the Beneficiary Firm fulfilling its obligations under this Agreement, for each Subsidy disbursement, the Government shall issue a Subsidy disbursement order (an indicative format of the aforesaid order is set out in Schedule – C).
- 10.2** The Government shall commence Subsidy disbursement upon the Beneficiary Firm exceeding the Value Addition at the Mother Unit level of 25% (twenty five per cent) within 2 (two) years of the Appointed Date and issuance of Milestone 1 Completion Certificate, with total Subsidy disbursement capped at INR 362,00,00,000 (Rupees three hundred and sixty two crore) per GWh, for a cumulative capacity of 50 (fifty) GWh of Advance Chemistry Cell manufacturing capacity. It is clarified that Subsidy disbursement to the Beneficiary Firm shall be subject to achievement of the respective Milestone Completion Certificates, in accordance with the terms of this Agreement.
- 10.3** The Subsidy disbursement shall be provided for a period not exceeding 5 (five) years from the date of the issuance of Milestone 1 Completion Certificate and shall be disbursed on a quarterly basis. It is clarified that no Subsidy shall be disbursed beyond the 7th (seventh) anniversary of the Appointed Date.

ARTICLE 11
SUBSIDY AND DISBURSEMENT

11.1 Entitlement to Subsidy

- 11.1.1 The Beneficiary Firm shall ensure that the Advance Chemistry Cells manufactured by it in the Project shall be as per the applicable performance parameters set forth in Schedule - G and tested and certified as per the Testing Standards set forth in Schedule – D. The Parties agree that the Government shall disburse the Subsidy under and in accordance with Clause 11.2.
- 11.1.2 Subject to Clauses 11.5, 11.6, 11.7, and 11.8, the Beneficiary Firm shall be entitled to avail the Subsidy in accordance with this Agreement for a period of 5 (five) years from the issuance of the Milestone 1 Completion Certificate. Notwithstanding anything to the foregoing, it is expressly clarified and agreed that no Subsidy shall be payable beyond the 7th (seventh) anniversary of the Appointed Date.
- 11.1.3 The Beneficiary Firm further agrees that the Subsidy shall be as quoted by the selected bidder in the Bid, subject to any adjustment in accordance with this Agreement.

11.2 Disbursement Mechanism

- 11.2.1 The Subsidy to be paid to the Beneficiary Firm shall be disbursed quarterly upon the Beneficiary Firm fulfilling the requirements set forth in Schedule – E.
- 11.2.2 The Beneficiary Firm shall, in addition to the documents specified in Clause 11.3, furnish a letter requesting the Government to disburse the Subsidy in the format as prescribed in Schedule – H, a Subsidy determination form in the format as set forth in Schedule – B, an undertaking certifying the parameters for disbursement of the Subsidy have been met in the format as prescribed in Schedule – I, the commensurate Milestone Completion Certificates (in the format as prescribed in Schedule – O) issued by the Independent Engineer and an undertaking certifying the Value Addition in the format as prescribed in Schedule – J.
- 11.3 The Beneficiary Firm agrees and undertakes that it shall, in addition to self-certification mentioned in the Clause 11.2, furnish all documents specified in Clause 13.3 for availing the Subsidy and shall provide documentary evidence for the commencement of commercial production from the Directorate of Industries of the relevant state government in accordance with the Applicable Laws.
- 11.4 The Government shall have the right to inspect the Project either by itself or through the Independent Engineer to ensure that the Beneficiary Firm has met its Committed Capacity and Value Addition and is eligible for availing the Subsidy.
- 11.5 The Beneficiary Firm agrees that the Subsidy extended by the Government shall be phased down. The Government shall phase the Subsidy by way of a year-on-year reduction for the Term of the Project. Year wise fixed phasing of base Subsidy (benchmark amount) as quoted by the Beneficiary Firm shall be as follows:

| Financial Year | 1 year 2022-23 | 2 year 2023-24 | 3 year 2024-25 | 4 year 2025-26 | 5 year 2026-27 | 6 year 2027-28 | 7 year 2028-29 |
|---|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| Reduction | 0% | 0% | 0% | 0% | 10% | 20% | 40% |
| Year on year effective phasing of base Subsidy (benchmark amount) | 100% | 100% | 100% | 100% | 90% | 72% | 43% |

11.6 All Taxes (including without limitation direct taxes) applicable on the Project, in respect of Advance Chemistry Cell, shall be borne by the Beneficiary Firm, under and in accordance with Applicable Laws.

11.7 Notwithstanding anything contained herein, the Subsidy payable by the Government shall in no event exceed 20% (twenty per cent) of the sale price of the Advance Chemistry Cell i.e., the effective total turnover on account of sale of Advance Chemistry Cells manufactured and sold by the Beneficiary Firm during the Term of this Agreement. For the avoidance of doubt, it is clarified that for the purpose of calculation of such 20% (twenty per cent), Taxes shall be excluded from the sale price of the Advance Chemistry Cell.

11.8 Notwithstanding anything contained herein, the cumulative Subsidy payable by the Government to the Beneficiary Firm during the Term of this Agreement, shall not exceed INR 362,00,00,000 (Rupees three hundred and sixty-two crore) per GWh.

11.9 Partial cycle life testing

11.9.1 The Beneficiary Firm shall through a laboratory accredited by the National Accreditation Board for Testing and Calibration Laboratories (“NABL”) get the Advance Chemistry Cell tested and certified for their cycle life through a partial cycle life test. This would be done for a sample set of Advance Chemistry Cell. The sampling should be conducted as per sampling procedure in accordance with Schedule - D. The laboratory should also conduct the complete cycle life test in due course in accordance with Schedule - D. The programme administrator may choose to empanel certain accredited labs where the testing needs to be carried out as per Schedule - D.

11.9.2. The Parties agree that until the results of the complete cycle life test set forth in Schedule – D is determined, the Subsidy disbursed to the Beneficiary Firm shall be determined by the partial cycle life test in accordance with Schedule – D. The Subsidy disbursed based on the output of the partial cycle life test would be provisional, subject to the Advance Chemistry Cell demonstrating the quoted cycle life.

11.9.3 In the event the Subsidy determined following the complete cycle life test is lower than the Subsidy disbursed, based on partial cycle life test, the Government shall subtract the amount from the Subsidy requested by the Beneficiary Firm, for the subsequent quarter, in its letter requesting the Government to disburse the Subsidy in the format as prescribed in Schedule - H.

11.9.4 In the event the Subsidy determined following the complete cycle life test is higher than the Subsidy disbursed based on partial cycle life test, the Beneficiary Firm shall raise the remaining

amount in its letter requesting the Government to disburse the Subsidy in the format as prescribed in Schedule - H for the subsequent quarter.

Methodology for the computing the difference amount, as highlighted above, is illustrated in Schedule-N

ARTICLE 12

INSPECTION

- 12.1** The Government shall have a right to inspect the Project to determine compliance with Schedule-D hereto, including Advance Chemistry Cell manufactured, at least once each quarter. It shall make a report of such inspection (the “**Inspection Report**”) stating in reasonable detail the defects or deficiencies, if any and send a copy thereof to the Beneficiary Firm within 15 (fifteen) days of such inspection.
- 12.2** The Beneficiary Firm shall repair or rectify the defects or deficiencies, if any, set forth in the Inspection Report and furnish a report in respect thereof to the Government within 15 (fifteen) days of receiving the Inspection Report, provided that where the remedying of such defects or deficiencies is likely to take more than 15 (fifteen) days, the Beneficiary Firm shall submit progress reports once every week until such works are completed in conformity with this Agreement.
- 12.3** The Beneficiary Firm shall intimate in writing to the Government and the Independent Engineer of its readiness to complete each of the Milestones specified in the Bid, along with evidence of completion of each such activity. The Government shall, within 7 (seven) days of receiving such written intimation, cause the Independent Engineer to inspect the relevant documents and the Project to determine compliance by the Beneficiary Firm with fulfilment of such Milestones. Upon being satisfied that the Beneficiary Firm has duly complied with all the requirements set forth in this Agreement and as provided in the Bid for achieving each such Milestones, the Independent Engineer shall within a period no longer than 21 (twenty-one) days from such inspection, issue to the Beneficiary Firm a milestone completion certificate (the “**Milestone Completion Certificate**”) for each of the Milestones (i.e., Milestone 1 Completion Certificate and Milestone 2 Completion Certificate) in the form prescribed in Schedule - O. In the event of any deficiencies or shortcomings, the Independent Engineer shall notify the same to the Beneficiary Firm within 7 (seven) days of such inspection, and the Beneficiary Firm shall rectify/ remove the deficiencies within such period to the reasonable satisfaction of and as specified by the Independent Engineer, who shall thereafter issue the relevant Milestone Completion Certificate within 7 (seven) days from the date of such rectification/ removal of deficiencies and intimation by Beneficiary Firm to the Independent Engineer.

It is clarified that the Beneficiary Firm shall not be entitled to receive any Subsidy in accordance with Article 11, till the issuance of the corresponding Milestone Completion Certificate is issued by the Independent Engineer. For the avoidance of any doubt, it is clarified that the Milestones referred to in this Clause 12.3 shall include the Investment specified in Clause 3.1 sub - clause (a), and the phased capacity fulfilment by the Beneficiary Firm, as specified in the Bid.

- 12.4** In the event that remedial measures are not completed by the Beneficiary Firm in accordance with the provisions of this Agreement, it shall amount to the Beneficiary Firm Event of Default.

ARTICLE 13
AUDIT AND ACCOUNTS

- 13.1** The Beneficiary Firm shall maintain books of accounts recording all its receipts, income, expenditure, payments, assets, and liabilities, in accordance with this Agreement, Applicable Laws and Applicable Permits.
- 13.2** The Beneficiary Firm shall provide 2 (two) copies of its Balance Sheet, Cash Flow Statement and Profit and Loss Account, along with a report thereon by its statutory auditor, within 90 (ninety) days of the close of every Financial Year. The Government shall have the right to inspect the records of the Beneficiary Firm during office hours and require copies of relevant extracts of books of accounts, duly certified by the statutory auditor and in the event of any discrepancy or error being found, the same shall be rectified.
- 13.3** The Beneficiary Firm agrees that for availing the Subsidy, it shall furnish the following documents to the Government:
- (a) Certified statements by its statutory auditor evidencing receipt of quantum and value of raw material, inputs, semi-finished goods, capital goods, and finished goods, along with the respective Tax credit, if applicable;
 - (b) A certificate from its statutory auditor certifying the sales and capacity of manufactured goods/trading goods/scrap/ stock transfer and GST paid on the amount of sales reported in financial statements and GST returns;
 - (c) Unit level audited accounts for the relevant Financial Year issued by a statutory auditor if and as applicable; or
 - (d) Monthly GST report in the respective quarter and GST audit report for the most recent Financial Year for the Beneficiary Firm.
- 13.4** The Beneficiary Firm shall, within 45 (forty-five) days of the close of each quarter of a Financial Year, furnish to the Government its unaudited financial results in respect of the preceding quarter, in the manner and form prescribed under Applicable Law and as may be required by the Government.
- 13.5** Notwithstanding anything to the contrary contained in this Agreement, the Government shall have the right, but not the obligation, to appoint at its cost from time to time and at any time, another independent firm to audit and verify all those matters, expenses, costs, realizations, and things which the statutory auditor is required to do, undertake, or certify pursuant to this Agreement.

ARTICLE 14
FORCE MAJEURE

14.1 Force Majeure

As used in this Agreement, the expression “**Force Majeure**” or “**Force Majeure Event**” shall mean, save and except as expressly provided otherwise, occurrence in India of any or all of events, set out in Clause 14.2 below, if it affects the performance by the Party claiming the benefit of Force Majeure (the “**Affected Party**”) of its obligations under this Agreement and which act or event: (a) is beyond the reasonable control of the Affected Party, (b) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (c) has Material Adverse Effect on the Affected Party.

14.2 A Force Majeure Event shall mean one or more of the following acts or events:

- (a) act of God, pandemic, epidemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionising radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Project);
- (b) strikes or boycotts (other than those involving the Beneficiary Firm, Contractor or their respective employees/representatives, or attributable to any act or omission of any of them) interrupting supplies and services to the Project for a continuous period of 24 (twenty-four) hours and an aggregate period exceeding 7 (seven) days in a Financial Year;
- (c) any delay or failure of an overseas Contractor to deliver equipment in India if such delay or failure is caused outside India by any event specified in sub-clause (a) above and which does not result in any offsetting compensation being payable to the Beneficiary Firm by or on behalf of such Contractor;
- (d) any judgement or order of any court of competent jurisdiction or statutory authority made against the Beneficiary Firm in any proceedings for reasons other than (i) failure of the Beneficiary Firm to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement by the Government;
- (e) the discovery of geological conditions, toxic contamination or archaeological remains on the Project that could not reasonably have been expected to be discovered through a site inspection;
- (f) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;
- (g) any political or economic upheaval, disturbance, movement, struggle or similar occurrence which could not have been anticipated or foreseen by a prudent person and

which causes the construction or operation of the Project to be financially unviable or otherwise not feasible;

- (h) industry-wide or State-wide strikes or industrial action for a continuous period of 24 (twenty-four) hours and exceeding an aggregate period of 7 (seven) days in a Financial Year;
- (i) any civil commotion, boycott or political agitation which prevents production and assembly of Advance Chemistry Cell or fulfilment of obligations by the Beneficiary Firm for an aggregate period exceeding 15 (fifteen) days in a Financial Year;
- (j) failure of the Government to permit the Beneficiary Firm to continue its construction works, with or without modifications, in the event of stoppage of such works after discovery of any geological or archaeological finds or for any other reason;
- (k) compulsory acquisition in national interest or expropriation of any assets or rights in relation to the Project, of the Beneficiary Firm or Contractors;
- (l) unlawful or unauthorised or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, license, permit, authorisation, no objection certificate, consent, approval or exemption required by the Beneficiary Firm or any of the Contractors to perform their respective obligations under this Agreement, provided that such delay, modification, denial, refusal or revocation did not result from the Beneficiary Firm's or any Contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, license, authorisation, no objection certificate, exemption, consent, approval or permit; or
- (m) any failure or delay of a Contractor but only to the extent caused by another Force Majeure Event.

14.3 Duty to report Force Majeure Event

14.3.1 Upon occurrence of a Force Majeure Event, the Affected Party shall by notice report such occurrence to the other Party forthwith. Any notice pursuant hereto shall include full particulars of:

- (a) the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article 14 with evidence in support thereof;
- (b) the estimated duration and the effect or probable effect which such Force Majeure Event is having or will have on the Affected Party's performance of its obligations under this Agreement;
- (c) the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event; and
- (d) any other information relevant to the Affected Party's claim.

- 14.3.2 The Affected Party shall not be entitled to any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event no later than 7 (seven) days after the Affected Party knew, or ought reasonably to have known, of its occurrence, and shall have given particulars of the probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under this Agreement.
- 14.3.3 For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required under this Agreement, and such other information as the other Party may reasonably request the Affected Party to provide.

14.4 Effect of Force Majeure Event on the Contract

- 14.4.1 Upon the occurrence of any Force Majeure Event prior to the Appointed Date, the period set forth in Clauses 4.2 and 4.3 for fulfilment of Conditions Precedent and for achieving the Appointed Date shall be extended by a period equal in length to the duration of the Force Majeure Event.
- 14.4.2 At any time after the Appointed Date, if any Force Majeure Event occurs, the Term shall be extended by a period, equal in length to the period during which the Beneficiary Firm was prevented from performing its obligations.
- 14.4.3 The Parties agree that at any time after the Appointed Date, if any Force Majeure Event occurs, the phasing of the Subsidy by way of a year-on-year reduction pursuant to Clause 11.5 of this Agreement shall be deferred by a period equivalent to the duration of such Force Majeure Event.

By way of illustration, if the Appointed Date is April 01, 2022, and a 30 (thirty) day Force Majeure Event prevents the Beneficiary Firm from performing its obligations from June 1, 2022 until June 30, 2022, then the date on which phasing will take effect shall be deferred by 30 (thirty) days, i.e., until May 1, 2023 (with the subsequent phasing taking effect on May 1, 2024 and so on and so forth).

14.5 Parties to bear their own costs arising out of Force Majeure

- 14.5.1 Upon occurrence of any Force Majeure Event, the Parties shall bear their respective costs incurred and attributable to such event and directly relating to the Project (the “**Force Majeure Costs**”) and neither Party shall be required to pay to the other Party any costs or compensation thereof.
- 14.5.2 Save and except as expressly provided in this Article 14, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, claims, demands, and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereto.

14.6 Termination Notice for Force Majeure Event

If a Force Majeure Event subsists for a period of 180 (one hundred and eighty) days or more within a continuous period of 365 (three hundred and sixty five) days, or for a continuous period of 180 (one hundred and eighty) days in any given time-frame, either Party may in its discretion terminate this Agreement by issuing a Termination Notice to the other Party without being liable in any manner whatsoever, save as provided in this Article 14, and upon issue of such Termination Notice, this Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith, provided that before issuing such Termination Notice, the Party intending to issue the Termination Notice shall inform the other Party of such intention and grant a period of 15 (fifteen) days to make a representation, and may after the expiry of such 15 (fifteen) days period, whether or not it is in receipt of such representation, in its sole discretion issue the Termination Notice.

14.7 Dispute resolution

In the event that the Parties are unable to agree in good faith about the occurrence or existence of a Force Majeure Event, such Dispute shall be finally settled in accordance with the Dispute Resolution Procedure, provided that the burden of proof as to the occurrence or existence of such Force Majeure Event shall be upon the Party claiming relief and/or excuse on account of such Force Majeure Event.

14.8 Excuse from performance of obligations

14.8.1 If the Affected Party is rendered wholly or partially unable to perform its obligations under this Agreement because of a Force Majeure Event, it shall be excused from performance of such of its obligations to the extent it is unable to perform on account of such Force Majeure Event; provided that:

- (a) the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;
- (b) the Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence; and
- (c) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.

14.8.2 The Parties agree that the Beneficiary Firm shall develop alternate or standby arrangements for provision of goods and services in accordance with Good Industry Practice and failure on this account shall not excuse the Beneficiary Firm from performance of its obligations hereunder.

ARTICLE 15
CHANGE IN LAW

15.1 No compensation

If as a result of Change in Law, the Beneficiary Firm suffers an increase in costs or reduction in net after-Tax return or other financial burden or benefits from a reduction in costs or increase in net after-Tax return or other financial gains, neither Party shall be liable for any compensation payable to the other Party. It is expressly agreed and clarified that the Parties shall bear their respective increase or decrease in costs arising from Change in Law without any liability towards or remedy against the other Party.

ARTICLE 16
EVENTS OF DEFAULT AND TERMINATION

16.1 Beneficiary Firm Event of Default

16.1.1 The occurrence of any of the following events would constitute an event of default on the part of the Beneficiary Firm (“**Beneficiary Firm Event of Default**”), unless such an event occurs due to Force Majeure Event:

- (a) the Beneficiary Firm fails to meet any Conditions Precedent, within a cure period of 30 (thirty) days;
- (b) the Performance Security or any part thereof has been encashed and appropriated in accordance with Clause 7.2 and the Beneficiary Firm fails to replenish or provide fresh Performance Security within 15 (fifteen) days, or subsequent to the replenishment or furnishing of fresh Performance Security in accordance with Clause 7.2, the Beneficiary Firm fails to cure, within a cure period of 120 (one hundred and twenty) days, the Beneficiary Firm Event of Default for which whole or part of the Performance Security was appropriated;
- (c) occurrence of any Insolvency Event;
- (d) if Damages are levied for 6 (six) consecutive quarters owing to non-achievement of Committed Capacity and/or the Committed Value Addition; and
- (e) breach of any other obligations under this Agreement.

16.2 Termination for Beneficiary Firm Event of Default

16.2.1 Upon the occurrence of any Beneficiary Firm Event of Default for continuance period of 60 (sixty) days, the Government may deliver a default notice (“**Beneficiary Firm Default Notice**”), specifying the reasonable details and calling upon the Beneficiary Firm to remedy the same.

16.2.2 Unless the Parties have mutually agreed otherwise, or the Beneficiary Firm Event of Default has been remedied within a period of 30 (thirty) days, the Government may terminate this Agreement by serving a 7 (seven) days’ notice (“**Beneficiary Firm Termination Notice**”) to such effect to the Beneficiary Firm. It is clarified that such Beneficiary Firm Event of Default shall also entitle the Government to appropriate and encash the Performance Security and the Beneficiary Firm shall not be entitled to receive any Subsidy from the Government in such case.

16.2.3 Upon delivery of the Beneficiary Firm Termination Notice, this Agreement shall stand terminated from the date of Beneficiary Firm Termination Notice. Upon such termination, the Beneficiary Firm shall stand discharged of all its obligations, except for those that had accrued prior to the date of termination of this Agreement.

ARTICLE 17
DISPUTE RESOLUTION

17.1 Dispute resolution

Notwithstanding anything to contrary contained in this Agreement including Clause 17.1, any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (“**Dispute**”) shall, in the first instance, be attempted to be resolved amicably in accordance with the procedure set forth in Clauses 17.2.

17.2 Conciliation

In the event of any Dispute between the Parties, either Party may require such Dispute to be referred to the authorised representative of Beneficiary Firm and the authorised representative of Government for an amicable settlement.

17.3 Resolution of Dispute by the Court

In the event the Dispute is not amicably settled within 15 (fifteen) days of the meeting of the authorised representative of each Party or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 17.1 or such longer period as may be mutually agreed by the Parties, then such Dispute shall be exclusively resolved by the courts at New Delhi.

ARTICLE 18
MISCELLANEOUS

18.1 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the Courts at Delhi shall have exclusive jurisdiction over all matters arising out of or relating to this Agreement.

18.2 Waiver of sovereign immunity

The Government unconditionally and irrevocably agrees that the execution, delivery, and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose.

18.3 No Waiver

Waiver by any Party of a default by another Party in the observance and performance of any provision of or obligations under this Agreement:

- (a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;
- (b) shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and
- (c) shall not affect the validity or enforceability of this Agreement in any manner.

Neither the failure by any Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation thereunder nor time or other indulgence granted by any Party to another Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

18.4 No third-party beneficiaries

This Agreement is solely for the benefit of the Parties and no other person or entity shall have any rights hereunder.

18.5 Survival

18.5.1 Termination of this Agreement:

- (a) shall not relieve the Parties of any obligations hereunder which expressly or by implication survive termination hereof; and
- (b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such termination or arising out of such termination.

18.5.2 All obligations surviving the cancellation, expiration or termination of this Agreement shall only survive for a period of 3 (three) years following the date of such termination or expiry of this Agreement.

18.6 Notices

All notices or other communications to be given or made under this Agreement shall be in writing, shall either be delivered personally or sent by courier or registered post with an additional copy to be sent by facsimile or e-mail. The address for service of each Party, its facsimile number and e-mail address are set out under its name on the signing pages hereto. A notice shall be effective upon actual receipt thereof, save that where it is received after 5.30 (five thirty) p.m. on any day, or on a day that is a public holiday, the notice shall be deemed to be received on the first working day following the date of actual receipt. Without prejudice to the foregoing, a Party giving or making a notice or communication by facsimile or e-mail shall promptly deliver a copy thereof personally or send it by courier or registered post to the addressee of such notice or communication. It is hereby agreed and acknowledged that any Party may by notice change the address to which such notices and communications to it are to be delivered or mailed. Such change shall be effective when all the Parties have notice of it.

18.7 Language

All notices, certificates, correspondence, and proceedings under or in connection with this Agreement shall be in English.

18.8 Authorised representatives

Each of the Parties shall by notice in writing designate their respective authorised representatives through whom only all communications shall be made. A Party hereto shall be entitled to remove and/or substitute or make fresh appointment of such authorised representative by similar notice.

18.9 Confidentiality

- (a) The Parties agree that all aspects of the content of this Agreement shall be treated as confidential and no information in respect thereof shall be disclosed without prior written consent of the other Party.
- (b) Sub-clause (a) does not apply to confidential information which: (i) at the date of disclosure by and on behalf of one Party to the other Party or that other party's professional advisers is in the public domain, or (ii) after such disclosure, enters the public domain through no fault of that Party or its professional advisers, or (iii) was lawfully in the possession of that Party or its professional advisers at the date hereof as evidenced by the written records of that Party or its professional advisers, and which was not acquired directly or indirectly from such first Party, or (iv) is required under the Applicable Law or order of any competent court.

18.10 Binding Nature

This Agreement shall be for the benefit of and be binding upon the Parties, and their respective successors and permitted assigns.

18.11 Further Assurance

Each Party agrees to execute, acknowledge, deliver, file record, and publish such further contracts, certificates, amendments to certificates, instruments, and documents, and do all such other acts and things as may be required by law, or as may be required to carry out the intent and purposes of this Agreement.

18.12 Heading and References

The clause headings are for convenience only and do not form part of this Agreement and references to Clause and Annexures shall be deemed to be references to clauses and Annexures of this Agreement unless the context expressly provides otherwise.

18.13 Counterparts

This Agreement may be executed in one or more duplicate counterparts, and when executed and delivered by the Parties, shall constitute a single binding agreement.

18.14 Amendment

This Agreement can be amended or supplemented only with the written consent of both the Parties.

18.15 Stamp Duty and Registration Costs

The Parties shall bear all charges equally on account of stamping or registration of this Agreement that may be applicable and is levied by the concerned authorities on registration of this Agreement.

18.16 Severability

- (a) The Parties agree that if any provision of this Agreement is or becomes invalid, illegal, or unenforceable, the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired.
- (b) Notwithstanding the foregoing, the Parties shall thereupon negotiate in good faith in order to agree to the terms of a mutually satisfactory provision, achieving as nearly as possible the same commercial effect, to be substituted for the provision so found to be void or unenforceable.

18.17 Relationship of the Parties

This Agreement shall not be interpreted or construed to be or create an association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party shall have any right, power or authority to enter into any

agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

18.18 Entire Agreement

This Agreement and any other transaction documents to which both Parties are a party constitute the entire agreement of the parties relating to the subject matter hereof. There are no promises, terms, conditions, obligations, or warranties other than those contained in this Agreement. This Agreement supersedes all prior communications, representations, RFP or agreements, verbal or written, among the Parties relating to the subject matter hereof.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DAY, MONTH AND YEAR FIRST ABOVE WRITTEN.

| | |
|---|---|
| <p>FOR Ministry of Heavy Industries, Government of India</p> <p>_____</p> <p>Authorised Signatory Name: Designation: Address: Email:</p> <p>Witnessed by: Name: Designation:</p> | <p>FOR [●]</p> <p>_____</p> <p>Authorised Signatory Name: Designation: Address: Email:</p> <p>Witnessed by: Name: Designation:</p> |
|---|---|

SCHEDULE – A

APPLICABLE PERMITS FOR ESTABLISHING PROJECT

Clearance / Permit Requirements

Below is an indicative list of Applicable Permits for setting up the Project as specified by Department for Promotion of Industry and Internal Trade:

| Clearance/ permit | Agency concerned |
|---|---|
| Incorporation of Company | Registrar of Companies |
| Registration/IEM (Industrial Entrepreneur Memorandum/Industrial license) | District Industry Centre for Small Scale Industries (SSI) /Secretariat of Industrial Assistance (SIA) for large and medium industries of relevant state government |
| Allotment of land | (a) State Directorate of Industries (DI) (b) State Industrial Development Corporation (SIDC) (c) Infrastructure Corporation (d) Small Scale Industrial Development Corporation (SSIDC) |
| Permission for land use (in case industry is located outside an industrial area) | (a) State Directorate of Industries (b) Department of Town and Country Planning (c) Local authority/District Collector |
| NOC and consent to establish and operate under Water and Air Pollution Control Acts | State Pollution Control Board |
| Permits relating to environmental protection and conservation of the site of the Project (including the Environmental Clearance) | (a) Ministry of Environment, Forest and Climate Change; (b) State Pollution Control Board |
| Approval of construction activity and building plan | (a) Town and country planning (b) Municipal and local authorities (c) Chief Inspector of Factories (d) Pollution Control Board (e) Electricity Board |
| Sanction of Power | State Electricity Board / State Power distribution utility or company |
| Tax Registration | (a) State and Central GST Department (b) State Department of Revenue |
| Extraction of Minerals (if required) | State Director of Mines and Geology |

SCHEDULE – B

SUBSIDY GRANTED TO THE BENEFICIARY FIRM

[•]

Annex - I
Subsidy Determination Form

(For the purpose of releasing Subsidy under “National Programme on Advance Chemistry Cell (ACC) Battery Storage”)

| | |
|--|---|
| Beneficiary Name | CIN Number |
| | |
| Subsidy eligibility certificate No. | Subsidy eligibility certificate validity |
| | |
| From Month | To Month |
| | |

I, _____ (Name, authorized signatory), on behalf of M/s _____ (Beneficiary name) being an applicant for release of Subsidy under “National Programme on Advance Chemistry Cell (ACC) Battery Storage” with LOA number _____ (Bid LOA number) hereby confirm that my Subsidy during the period _____ to _____ (quarter months) is calculated to be INR.

(a) Quantity of cells sold during period (Nos.):

| | |
|---------|----------------|
| HSN no. | Quantity (nos) |
| | |

(b) Quantity of cells sold during period (kWh):

| | |
|---------|----------------|
| HSN no. | Quantity (kWh) |
| | |

(c) Effective Subsidy per kWh (as per Programme Agreement) (INR):

| | |
|---------|---------------------|
| HSN no. | Subsidy (INR / kWh) |
| | |

(d) Percentage of Value Addition (as per certificate for Value Addition in India), or the Value Addition specified in the technical bid of the Beneficiary Firm, whichever is lower:

| | |
|---------|--------------------|
| HSN no. | Value Addition (%) |
| | |

(e) Overall Subsidy amount (b x c x d) (INR):

(f) Applicable penalty on account of shortfall in achievement of stipulated Value Addition or Committed Capacity (INR)

.....
Authorized Signatory with Date, Name and Seal
(Name of Beneficiary)
Designation.....

Seal

Verified by

.....
Name of Statutory Auditor

Seal

SCHEDULE – C

F. No. XXXXXXXXXXXX
Government of India
Ministry of Heavy Industries
Udyog Bhawan, New Delhi

INDICATIVE

Dated: DD.MM.YYYY

To,
The Pay & Account Officer,
Pay & Account Office,
Ministry of Heavy Industries,
Udyog Bhawan,
New Delhi - 110001

Subject: Disbursement of Subsidy to XXXX.

1. The production linked incentive scheme (“**PLI Scheme**”) for Advanced Chemistry Cell (“**ACC**”) was notified on 9 June 2021 with the approval of Union Cabinet, for providing subsidy to attract investments in battery manufacturing in the country. A copy of the notification is enclosed.
2. The application of XXXXX (*Name of the Beneficiary Firm*) seeking Subsidy under PLI Scheme was received on DD.MM.YYYY for manufacturing of ACCs under the said notification. The manufacturing facility was proposed to be implemented at an estimated cost of INR XXXX crore at location: XXXX. The application was accorded approval on DD.MM.YYYY.
3. The Beneficiary Firm achieved Milestone I Completion Certificate as per the Programme Agreement on DD.MM.YYY and received approval from Ministry of Heavy Industries on DD.MM.YYY.

[The Beneficiary Firm also achieved Milestone 2 Completion Certificate as per the Program Agreement on DD.MM.YYY and received approval from Ministry of Heavy Industries on DD.MM.YYYY]³

4. The application for disbursement of Subsidy on the sale of batteries under the PLI Scheme for INR XXXX was submitted by the Beneficiary Firm through their application on DD.MM.YYYY. The verification of claim was done by Miss. XXXXX, the verification agency appointed by Ministry of Heavy Industries. The verification agency concluded that the Beneficiary Firm is eligible for an amount of INR XXXXX.
5. As per verification report, the summary of the disbursement request made by the Beneficiary Firm is as under:

| S. No | Particulars | Details |
|-------|--------------------------------|--|
| A. | Current claim period – Quarter | Invoices from DD.MM.YYYY to DD.MM.YYYY |

³ **Note:** To be stated on disbursement of Subsidy after the achievement of Milestone 2 Completion Certificate.

| | | |
|----|--|--|
| B. | Sales completed by the Beneficiary Firm during the period for which Subsidy has been claimed | Sales Amount: INR XXXX |
| C. | Subsidy claimed by the Beneficiary Firm | Subsidy on sale price: INR XXXXX Total Subsidy claimed: INR XXXX (Subject to a ceiling of 20% value of sale price) |

6. The verification agency has found the amount of INR XXXXX as ineligible in the claim for Subsidy by the Beneficiary Firm. The verification agency shall release the details on ineligible claims before the disbursement of Subsidy.
7. The eligible Subsidy on sale value of INR. XXXXX comes out to INR XXXXX. The details are as follows:

| S. No | Particulars | Details |
|-------|---|-----------------------|
| A. | Subsidy claims submitted by the Beneficiary to the Government | INR |
| B. | Achievement of Milestone 1 | Yes/No (If Yes, Date) |
| C. | Achievement of Milestone 2 | Yes/No (If Yes, Date) |
| D. | Claims considered eligible for disbursement | INR |
| E. | Final amount to be paid as Subsidy | INR |

8. In accordance with the provisions of the Programme Agreement, for disbursement of Subsidy, XXX (*Name of the Beneficiary Firm*) had submitted the following documents for seeking release of the Subsidy:
- (a) Request letter to the Government for availing cash Subsidy as per Schedule H of the Program Agreement;
 - (b) An undertaking as per the format given at the Schedule I of the Program Agreement 'Undertaking of Subsidy Parameters';
 - (c) Certificate for Value Addition in India as per Schedule J of the Program Agreement; and
 - (d) Board resolution to the effect that the Beneficiary Firm agrees to abide by the terms and conditions as laid down in the Programme Agreement.
9. In view of above, Subsidy of INR XXXXX-(XXX only) may be credited in the bank account of Mis XXXX (*Name of the Beneficiary Firm*) as per bank details given below :-

Name of Account Holder:

Address:

Bank Name:

A/c No.:

IFSC No.:

10. The expenditure involved can be debited to XXXX (Major Head) under Demand No. XXX of Ministry of Heavy Industries for the Financial Year 20XX-XY.

11. This issues with the approval of Secretary, Ministry of Heavy Industries vide XXXX dated DD.MM.YYYY and concurrence of IFD, Ministry of Heavy Industries vide XXXX dated DD.MM.YYYY.

Yours faithfully,

(Authorised Signatory)

CC: Beneficiary Firm

SCHEDULE – D

TESTING STANDARDS

1 Testing Standards

1.1 Purpose

- 1.1.1 This schedule lays down guidelines for testing of Advance Chemistry Cells for the purpose of availing Subsidy to be provided under the National Programme on Advance Chemistry Cell (ACC) Battery Storage. The tests and criteria prescribed in this schedule are limited to calculation of energy density and cycle lives which are the essential qualifying criteria for manufacturers to avail Subsidy for ACC as per the performance outputs specified in ACC matrix (for example under paragraph 1.3 below). For the purpose of commercial sale of the cells in the Indian market, independent testing as per the prevailing standards would be necessary.
- 1.1.2 These guidelines provide the standardized testing framework to decide the eligibility criteria in the National Programme on Advance Chemistry Cell Battery Storage for incentivising cell manufacturing in India. The cells will be tested to determine the Beneficiary Firm's eligibility as per the eligibility matrix for availing incentives under the said programme. It is clarified that the responsibility for having such tests conducted shall rest with the Beneficiary Firm.
- 1.1.3 These guidelines specify performance requirements of the cells to be tested by a third-party laboratory accredited by NABL. It also specifies the requirements of sampling, test methods and key requirements to be met by the testing laboratories. The programme administrator may choose to empanel certain accredited labs where the testing needs to be carried out as per this Schedule-D.
- 1.1.4 These testing standards are in accordance with ETD 11 (18132) that is methods of test for measurement of energy density and cycle life of Advance Chemistry Cells.

1.2 Terms and definitions

Following terms and definitions shall apply for standardise testing framework:

Advance Chemistry Cells:

As defined in Schedule-G.

The cycle life and energy density have been defined which have to be achieved at specified operating conditions (Temperature and C-rate) as elaborated in this document. The cycle life has to be achieved at specified Depth of Discharge (“**DoD**”) and End of Life (“**EoL**”) capacity as defined in the document.

Energy density:

Energy density is the amount of energy stored per unit weight of a cell and to be measured in Wh/kg.

Cycle life:

Cycle life is the number of charge and discharge cycles that a cell is able to support at a specified DoD before its capacity degrades to the EoL condition.

State of Health (“SoH”):

State of Health is defined as the ratio of actual capacity of a cell and the initial rated capacity of the cell and it is expressed as a percentage.

End-of-life (“EoL”) capacity:

End-of-Life capacity is defined as the minimum SoH of the cells, post which they cannot fulfil the applicant's requirements due to a significant reduction in performance.

Room temperature:

Room Temperature is defined here as the temperature of 25 °C (centigrade) \pm 2K

Rate of Discharge (“C-Rate”):

Rate of Discharge is a measure of the rate at which a cell is discharged or charged relative to its maximum capacity. e.g., 1C rate means that the discharge current will discharge the entire cell in 1 hour and in the same cell discharging at 0.5C would mean that discharge current will discharge the entire cell in 2 hours.

Depth of discharge (“DoD”):

Depth of Discharge is defined as the percentage (%) of energy cycled out of the battery on a given cycle with respect to the total capacity of the battery. In other words, the DoD can also be referred to as the fraction of the battery capacity which is used in every charge and discharge cycle.

Useable/ Useful energy:

Useable or Useful energy refers to the total cumulative energy discharged by a cell during the entire cycle life at the specified DoD level and EoL capacity threshold.

State of Charge (“SoC”):

The State of Charge of a cell denotes the capacity which is currently available as a function of the rated capacity. The value of the SoC varies between 0% and 100%. If the SoC is 100%, then the cell is said to be fully charged, whereas a SoC of 0% indicates that the cell is completely discharged.

Power Capacity:

Power Capacity refers to the rate at which the energy is delivered per unit time by the cell and is measured in watts.

1.3 Testing criteria for cell performance

There are several factors which affect both the useable energy and the cycle life. To avail the incentive under the National Programme on ACC Battery Storage, the manufacturer shall follow a common set of operating and environmental conditions, as defined in the subsequent sections, to demonstrate the output parameters and qualify for the incentive under the said

programme. Manufacturers may be permitted to make performance claim for which tests can be carried out over and above the minimum specified criteria. However, this must be done under the knowledge of the programme administrator.

1.3.1 Temperature

Criteria:

1.3.1.1 The test shall be performed at room temperature $25\text{ }^{\circ}\text{C} \pm 2\text{ K}$.

Note: The performance values at 25°C have been prescribed for the purpose of availing Subsidy. However, for the purpose of commercial sale of the ACCs in the Indian market, independent testing as per prevailing standards would be required. It is anticipated that such additional testing for product validation purposes will be taken up by the product developers and concerned customers as per their application and specific requirements.

1.3.2 Rate of Discharge (C-Rate)

Criteria:

1.3.2.1 The energy density and cycle life tests shall be conducted at 0.5C charge and 0.5C discharge as the standard test condition or any other higher charge / discharge rate, if requested by the manufacturer.

1.3.3 Depth of discharge (DoD)

Criteria:

1.3.3.1 The minimum DoD for testing shall be 80%. Testing at any other higher DoD level is permissible, if requested by the manufacturer. The cycle life and energy density tests shall be done at the same level of DoD.

1.3.3.2 The criteria for determining eligibility for incentives are given hereunder:

| Manufacturers' specifications (illustrative) | | | Useful Wh for energy density calculation | Qualified? Yes/No |
|--|------------------------|-----------------------|--|--|
| Cell | Name plate rating (Wh) | Cycle life at 80% DOD | | |
| A | 100 | >10000 | $100 \times 0.8 = 80$ Wh | Yes, if the cell meets or exceeds the energy density criteria of 50 Wh/kg |
| B | 100 | >4000 | $100 \times 0.8 = 80$ Wh | Yes, if the cell meets or exceeds the energy density criteria of 125 Wh/kg |
| C | 100 | >2000 | $100 \times 0.8 = 80$ Wh | Yes, if the cell meets or exceeds the energy density criteria of 125 Wh/kg |

| | | | | |
|---|-----|-------|-------------------|--|
| | | | Wh | density criteria of at least 200 Wh/kg |
| D | 100 | >1000 | 100 x 0.8 = 80 Wh | Yes, if the cell meets or exceeds the energy density criteria of more than 275 Wh/kg |

1.4 Testing criteria to assess the life cycle capacity

1.4.1 End-of-life (EoL) capacity

Criteria:

1.4.1.1 End-of-life capacity for testing shall be “80% of initial capacity and would be measured in Wh”.

1.4.2 Cycle life testing: Based on partial “cycle life” tests

Criteria:

1.4.2.1 Testing of the cycle life of the cells, at the specified DoD levels, shall be carried out up to completion of 50% of the number of cycles as specified by the manufacturer. Based on the performance of the cell at the end of 50% of the specified number of cycles, projections shall be made to arrive at the total cycle life of the cell, considering an EoL capacity of 80% of the initial rating of the cell. In addition:

- (a) Energy delivered at the start of cycle life, at end of 50% of cycle life and as projected at the EoL capacity should be at or above 100%, 90% and 80% of the rated capacity, respectively.
- (b) Power delivered at the start of cycle life, at end of 50% of cycle life and as projected at the EoL capacity should be at or above the manufacturer specified value.
- (c) The cell needs to demonstrate minimum acceptable voltage level through a high-rate discharge test.

1.4.2.2 The Subsidy determined through the above process would be provisional subject to the cell demonstrating the complete cycle life in due course. In case, the cell demonstrates a cycle life which changes its position in the ACC matrix, a penalty, as determined suitably, would have to be paid by the cell manufacturer. The detailed test procedure to carry out the cycle life test is given in Section 3.

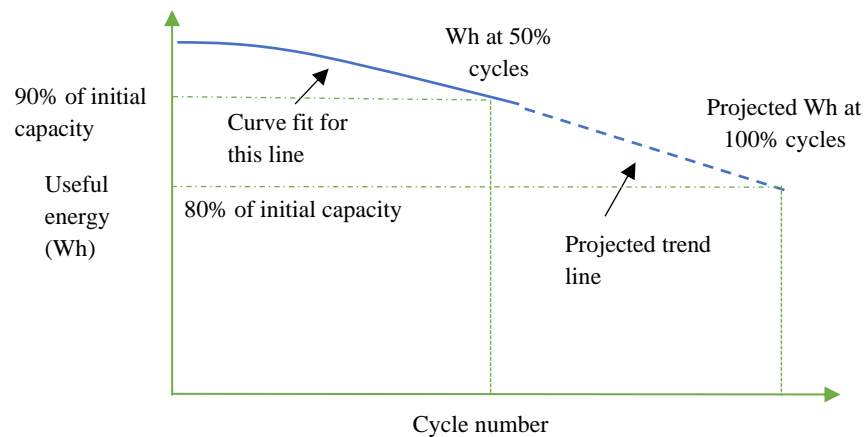
1.4.2.3 It is recommended that the test results and projections shall cover the following parameters as minimum performance requirements of the cell:

| # | Parameter | Start of cycle test | End of 50% specified no. of cycles | End of specified no. of cycles |
|---|--|---|--|--|
| 1 | Useful energy in Wh (delivered in one cycle) | Measured value to match specified value | Measured value to be at least 90% of initial value | Projected value to be at least 80% initial value |

| # | Parameter | Start of cycle test | End of 50% specified no. of cycles | End of specified no. of cycles |
|---|------------------------|---|--|---|
| 2 | Power capacity (Watts) | Measured value to be equal to or exceed "specification" | Measured value to be equal to or exceed "specification @50% cycle" | Projected value to be equal to or exceed "specification @ end of cycle" |

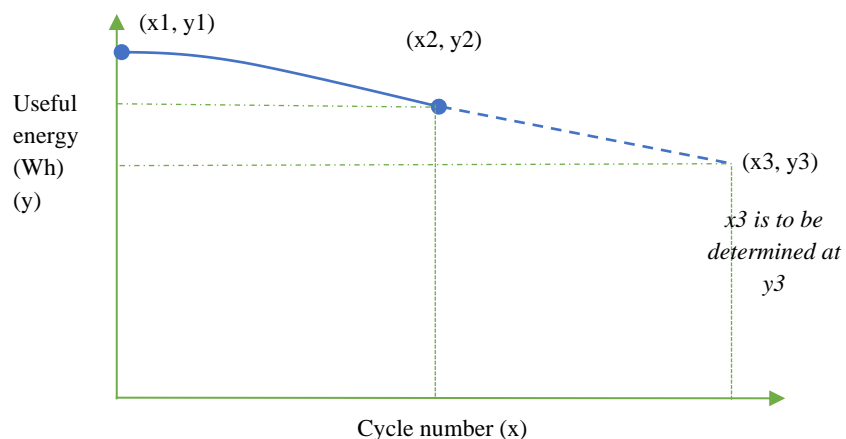
Note: Manufacturer has to mention the useful energy and power capacity for each of these stages.

1.4.2.4 To undertake the cycle life projections, post the end of 50% of specified no of cycles, the useful energy is measured in each cycle and a plot of energy is made against cycle number. The following diagram illustrates this process. This graph is then projected using a linear extrapolation method to determine the projected value of cycle life when the cell is expected to reach the EoL (80% of initial capacity in Wh).



Methodology of such linear extrapolation is specified as per following equation:

Consider a manufacturer who quotes a cycle life of, say, 2000 and useful energy of, say, 100 Wh. Testing would be done till 50% of quoted cycle life, i.e., 1000 cycles.



The projected cycle life (x3) is given as per below equation:

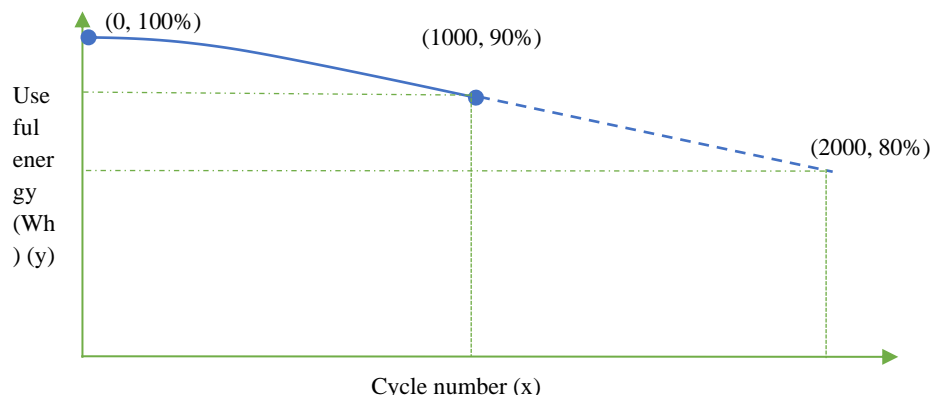
$$x_3 = x_1 + ((y_3 - y_1) * (x_2 - x_1) / (y_2 - y_1))$$

where:
x1 is 0;

y_1 is 100% capacity, say 100 Wh;
 x_2 is 50% of the cycle life specified by the manufacturer i.e. 1000;
 y_2 is the % of initial capacity calculated at x_2 , say 90 Wh;
 x_3 is the cycle life calculated at 80% of initial capacity;
 y_3 is 80% of the initial capacity, say 80 Wh;

Illustration of the extrapolation is mentioned below:

| Cycle life | Value (cycles) | Capacity | Value (Wh) | Remark |
|------------|------------------|----------|------------|---|
| x_1 | 0 | y_1 | 100 | These values will remain constant for all the tests |
| x_2 | 1000 | y_2 | 90 | x_2 is the cycle life calculated using 50% of manufacturer's specified cycle life; y_2 will be calculated using actual cycle life test |
| x_3 | To be determined | y_3 | 80 | x_3 will be calculated using the specified formula y_3 will be 80% of initial capacity |



Cycle life (x_3) is determined as follows:

$$\begin{aligned}
 x_3 &= 0 + ((80-100)*(1000-0)/(90-100)) \\
 x_3 &= 0 + (-20*1000/-10) \\
 x_3 &= 0 + 2000 = 2000
 \end{aligned}$$

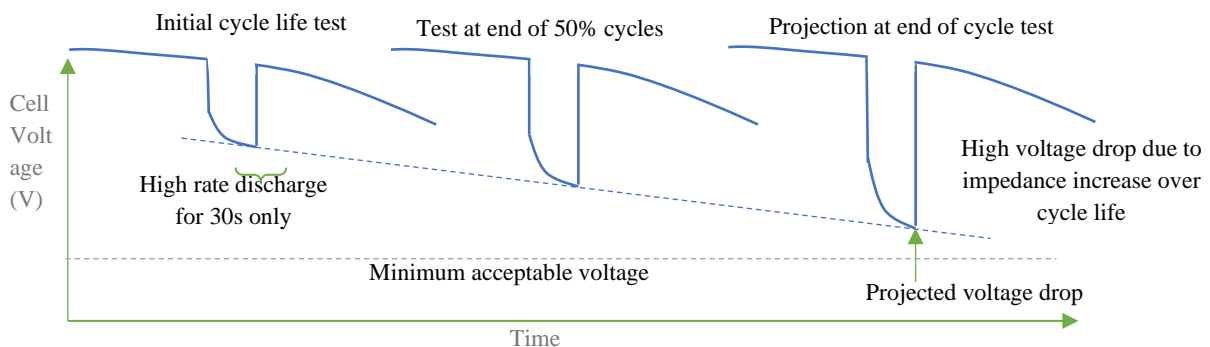
1.4.2.5 In addition, the testing should include a high -rate discharge test to ensure that the cell, under testing, can deliver rated power/ C-rate till the end of projected life, apart from maintaining the rated energy (kWh) capacity. Considering the same, the power capability of the cell, as mentioned in the end-of-life criterion, shall be measured using a “high -rate pulse discharge” as described below.

The testing agency should also endeavour to verify the results of cycle life testing, as per procedure illustrated above, through an alternate mechanism of predictive cycle life /

accelerated ageing method, in line with relevant standards, if available, and suited for the concerned ACC type. It is also explicitly clarified that as and when suitable standards / test methods for any alternate method of cycle life testing including predictive cycle life / accelerated ageing method is notified by programme administrator through adequate studies and deliberations, the same would be adopted for cycle life testing of ACCs under this programme. In such a case, applicability of provision 1.4.2.2 would be suitably examined.

1.4.3 High rate discharge test

1.4.3.1 This test shall be conducted by applying a high current pulse of 30 second duration while the cell is going through a normal discharge test. The parameters to be measured are as shown by the following illustration:



Note: Manufacturer should define the minimum acceptable voltage level. No “specific” value of the magnitude of the “high current” pulse is recommended for this test. The “manufacturer specified” 30 sec peak discharge current value shall be used for the test.

1.4.3.2 The cell, under testing, will need to pass this test by demonstrating that the cell voltage after application of the high current pulse shall not fall below the manufacturer determined end-of-discharge voltage / minimum acceptable voltage as highlighted in the graph above.

1.4.3.3 It is recommended that this test shall be conducted at a temperature of $25^{\circ}\text{C} \pm 2 \text{ K}$ and SoC of the cell below 50% but above 40%. The test should not be performed at below 40% SoC since the cell may not be able to deliver the required power at SoC levels below it.

1.4.4 Predictive cycle life testing

1.4.4.1 As the cycle life testing is a time taking process, there is need to develop a predictive testing that can predict cycle life of ACCs in a timeframe which would be similar to the time frame for conducting the energy density. The result of predictive testing can be considered by the program administrator to allow the manufacturer to qualify for Subsidy. This mechanism will help to avoid delay in disbursing of incentive to manufacturer.

1.4.4.2 Such type of testing will be highly data driven and require data modelling or machine learning to predict the cycle life the ACCs. Prediction of cycle life will require a large database of cycle life calculation of multiple ACCs. Once the database is created, capacity degradation behavior of the ACCs can be predicted using the appropriate tool.

1.4.5 Accelerated ageing method

1.4.5.1 Accelerated testing of cells is often conducted to predict performance and cycle life in the targeted operating conditions. The assumption here is that an elevated operating condition (high temperature, high charging rates, etc.) can accelerate the degradation levels of batteries/ cells and lead to a faster end-of-life over normal operating conditions.

1.4.5.2 As per IEEE 1679-2010, well-defined aging mechanisms are present for various energy storage technologies. Some factors can be aggravated to the point that they result in accelerated aging processes that dramatically shorten operating life. IEEE highlights factors which are needed to undertake a rapid ageing and extrapolating the results from the altered performance to estimate the actual cycle life.

1.4.5.3 These tests/ methods are recommended only to shorten the duration of Subsidy disbursement process for the manufacturer. However, an exhaustive / complete cycle life test shall also be conducted in parallel with predictive/ accelerated aging tests. Result of which will determine the applicability of Subsidy.

1.4.5.4 The task of finalizing test procedures for predictive/ accelerated ageing of ACCs will be done with the help of NABL accredited laboratories. The programme administrator may notify cycle life testing procedures based on the results of this task after due consultation with the relevant stakeholders.

2 Test Method for Energy Density

2.1 General

The following general conditions shall apply for the test method listed in subsequent clauses:

2.1.1 During each test, voltage, current and ambient temperature shall be recorded.

2.1.2 Before each test, the cell temperature shall be stabilized at room temperature by soaking at a temperature of 25 °C for a minimum of 12 h.

NOTES

- Thermal stabilization of a cell is considered to be reached if after an interval of 1 h, the change of cell temperature is lower than 1 K.

- The soaking period of 12 h may be reduced if thermal stabilization is reached.

2.1.3 The ambient temperature shall be the room temperature, which is the temperature of thermal chamber.

2.1.4 The overall accuracy of controlled or measured values, relative to the specified or actual values, shall be within the following tolerances:

- ± 0.1 % for voltage;
- ± 1 % for current;
- ± 2 K for temperature;
- ± 0.1 % for time;
- ± 0.1 % for mass;

NOTE: These tolerances comprise the combined accuracy of the measuring instruments, the measurement technique used, and all other sources of error in the test procedure.

2.1.5 Rounding off shall be done as per IS 2.

2.2 Charging procedure for test purposes

2.2.1 Prior to charging, the cell or battery shall be discharged at 25 °C at a constant C-rate, as per 1.3.2, down to a specified final voltage as declared by the manufacturer.

2.2.2 The charging procedure for test purposes shall be carried out in an ambient temperature of 25 °C, using the method declared by the manufacturer.

2.3 Mass measurement

The mass of a cell is measured at room temperature up to three significant figures in accordance with the tolerances in 2.1.4.

2.4 Energy Capacity measurement (in Wh)

2.4.1 The energy capacity of a cell shall be measured in accordance with the following steps:

Step 1 – The cell shall be charged in accordance with 2.2

Step 2 – The cell or battery shall be stored, in an ambient temperature of 25 °C, for the duration specified by the manufacturer.

Step 3 – The cell shall be discharged in an ambient temperature of 25 °C at a constant C-rate, as per 1.3.2, to the end-of-discharge voltage that is provided by the cell manufacturer.

NOTE The end-of-discharge voltage provided by the cell manufacturer shall correspond to at least a DoD of 80%, as per 1.3.2

Step 4 – Measure the discharge duration until the specified end-of-discharge voltage is reached. Calculate the discharge capacity of cell expressed in Ah up to three

significant figures, by multiplying the discharge current (A) with the discharge duration (h).

Step 5 – Average voltage calculation

The value of the average voltage during discharging shall be obtained by integrating the discharge voltage over time and dividing the result by the discharge duration. The average voltage is calculated in a simple manner using the following method:

Discharge voltages U_1, U_2, \dots, U_n are noted every 5 sec from the time the discharging starts and voltages that cut off the end-of-discharge voltage in less than 5 sec are discarded. The average voltage U_{avr} is then calculated in a simplified manner using equation (1) up to three significant figures by rounding off the result.

$$U_{avr} = \frac{U_1 + U_2 + \dots + U_n}{N} \quad (1)$$

Step 6 – The energy capacity expressed in Wh shall be calculated using Equation (2) up to three significant figures by rounding off the result.

$$W = C_d \times U_{avr} \quad \dots\dots(2)$$

where

W is the energy capacity of the cell at room temperature (Wh) when discharged under specified conditions;

C_d is the discharge capacity (Ah) as calculated in Step 4;

U_{avr} is the average voltage during discharging (V) as calculated in Step 5.

2.5 Calculation of mass energy density

2.5.1 Mass measurement

Mass of the cell shall be measured as specified in 2.3.

2.5.2 Energy capacity measurement

Energy capacity of the cell shall be determined in accordance with 2.4 at room temperature.

2.5.3 The mass energy density shall be calculated using equation (3) up to three significant figures by rounding off the result:

$$\rho_{ed} = \frac{W}{M} \quad \dots\dots (3)$$

where

ρ_{ed} is the mass energy density (Wh/kg);

W is the energy capacity of the cell at room temperature (Wh) when discharged under specified conditions;
 m is the mass of the cell (kg).

2.5.4 Process 2.5.2 and 2.5.3 shall be repeated five times. The final result shall be calculated by taking average of best three readings.

3 Test Method for Cycle Life measurement

A cell is generally chosen based on its high energy density and good power capability at the desired working voltage. However, the reliability of a cell depends on its ability to deliver the expected cycle life in the long run. High discharge currents can significantly reduce the cycle life of cells. The following steps illustrate the procedure for undertaking cycle life testing through a series of charge and discharge cycles. Before the charge and discharge cycle test, measure the energy capacity as the initial performance of the cell in accordance with 2.4 at 25 °C.

3.1 Charge and discharge cycle

The charge and discharge cycle test shall be performed as follows:

(a) At the start of the test, cell temperature shall be stabilized to 25 °C in accordance with 2.1.2.

(b) Test phases

Phase 1 – The cell shall be discharged at 25 °C at a constant C-rate, as per 1.3.2, down to a specified final voltage. The final voltage shall be the same as that declared by the manufacturer.

Phase 2 – The cells shall be fully charged, in an ambient temperature of 25 °C, by the method specified by the cell manufacturer. The charge time shall be less than 2 h for the constant current charging step.

Phase 3 - The cell shall be discharged, in an ambient temperature of 25 °C at constant C-rate, as per 1.3.2, until its voltage is equal to the end-of-discharge voltage that is provided by the cell manufacturer.

NOTE The end-of-discharge voltage provided by the cell manufacturer shall correspond to at least a DoD of 80%, as per 1.3.3.

Phase 4 – Phase 2 and 3 shall be repeated until the test termination specified in 3.1(d).

NOTE The rest time between each phase shall be as specified by the cell manufacturer.

(c) Periodical measurement of performance

(d) After completion of every 500 cycles, the energy capacity of the cell shall be measured as specified in 2.4.

(e) Termination of test

The cycle life test shall be terminated when either of the following conditions is satisfied.

Condition A – The test sequence from phase 2 to phase 4 has been repeated for equal number of cycles as declared by the cell manufacturer.

Condition B – Energy capacity is decreased to less than 80 % of the initial value.

NOTE If the voltage falls below the lower limit specified by the cell manufacturer during phase 3, the test shall be discontinued notwithstanding the stipulation in 3.1 (d), and the cell performance shall be measured at this point as specified in 3.1(c) .

4 Guidelines for the Sampling & Reporting Procedures

4.1 Sampling & Testing

4.1.1 Collection of samples.

4.1.1.1 For the purpose of this section, the definitions given in IS 4905: 2015 shall apply.

4.1.1.2 The sample size should be at least four times the number of units required for testing, to take into account probable damages due to transportation and possible repetition of tests upon failure in a test. Five cells for one particular test will suffice (please refer IS 16046 (parts 1 and 2)).

Explanatory Note: If the total number of exclusive cells required for all the tests is n , the sample size will be $4n$. The four samples will totally contain $4 \times n$ cells. Only the first sample out of the four selected samples need be submitted for testing. The other three sets totaling $3 \times n$ cells are to be kept as back up for the above-mentioned exigencies. If only five cells are required for each test and all the tests can sequentially be completed on those five cells, then n will be 5.

4.1.1.3 The sample should be drawn from cells which have completed manufacture, inclusive of all quality assurance programmes of the manufacturer, but before their assembly into batteries. The sample shall be drawn from batches which are not more than 3 months old.

4.1.1.4 The sample shall be collected as per Method 1 in clause 8.6 of IS 4905: 2015 from the production where the identification of the units shall be by their serial numbers. Random numbers for the purposes shall be generated as per algorithm at clause 7 of IS 4905.

Audit records as per 7.4 of IS 4905: 2015 shall be maintained.

4.1.2 Criteria for acceptance.

All units of a selected sample shall pass the tests. In case a sample fails (results fall outside the eligibility matrix) in any of the tests, a further sample consisting of double the number of units should be tested for all the tests. All units of this second sample shall pass in the tests.

4.1.3 Surveillance testing.

An independent agency designated by the programme administrator shall collect samples at the dispatch point or customers premises and get the samples tested at an independent laboratory once in a quarter. The samples shall conform to the requirements specified for the tests. In case of non-conformity, two more samples shall be tested, both of these subsequent samples shall conform to the specified requirements. The agency should draw the sufficient number of units to take care of this eventuality.

4.1.4 Storage/Transportation of samples.

Storage and transportation of samples shall be as per the instructions provided for the model by the manufacturer. UN 38.3 protocol for transportation of cells and batteries shall be followed in case no such instructions are provided by the manufacturer.

4.2 Online System for Sample Selection, Transactions & Reporting

1. The samples shall be provided by the manufacturer to the laboratory as per the sampling procedure. The manufacturer and the empanelled laboratory shall adhere to the guidelines, in the selection of samples, codifications, handling, storage and dispatch.
2. Before initiating the testing of the samples, the laboratory shall record compliance to the guidelines and if it observes any variance from the guidelines, the laboratory will inform the programme administrator for specific decisions.
3. Testing shall be done as per the test parameters defined in this document, and in accordance with the Indian or international standards. The turn-around time shall be less than 3 days, in addition to the required test duration as specified in the test method. No deviation is permitted in test procedures.
4. The program administrator shall implement an online system for information collation from the manufacturers and testing laboratories, for updating the status/details of sample physical fitness, sample receiving date, testing and completion date, test conformance details, progress report along with the test reports and its observed values, status of failures, analysis of trends etc.

4.3 Guidance on Samples used in Long Term Aging Test Procedures.

- 4.3.1 Cells are subject to degradation in storage due to a variety of chemical mechanisms, such as limited thermal stability of materials in storage. Battery performance can degrade during use, due to parasitic reactions. Rates of degradation can be related to a number of factors, such as storage temperature or temperature variations.

- 4.3.2 The effect of degradation of performance can be estimated by real time storage measurements or by accelerated ageing at high temperatures.
- 4.3.3 Hence, the selection of cells to be done for long term aging / cycle life testing has to be done exclusively from the fresh batch of manufacturing. For instance, as per 4.1.1, if the sampling has been done for batches manufactured during January - March, the cycle life testing/ aging test has to be done on samples manufactured at the most recent date in the January - March period.

SCHEDULE – E

DISBURSEMENT MECHANISM

1. The amount of cash Subsidy to be distributed shall be linked to the following factors:
 - (a) Capacity of Advance Chemistry Cell sold (per KWh basis); and
 - (b) Value Addition within India of Advance Chemistry Cell produced. The percentage of Value Addition may also include the Value Addition or indigenous manufacturers undertaking the activity of manufacturing in India.

2. The amount of Subsidy to be disbursed would be calculated as following:

Formula for calculation:

Fixed amount per kilowatt hour X (multiplied) Percentage of Value Addition achieved during the period X (multiplied) Actual production of Advance Chemistry Cell sold (in KWh).

The fixed amount per kilowatt hour is calculated as multiplication of base Subsidy factor for the applicable Advanced Chemistry Cell with effective phasing of base Subsidy as indicated in Article 11 of this Agreement.

Explanation:

“**Value Addition**” shall be construed as the percentage of manufacturing activity (to manufacture Advance Chemistry Cell) being undertaken in India, by the Beneficiary Firm either on its own or via indigenous manufacturers.

3. **Self-certification/ Validation**

The Beneficiary Firm shall provide self-certification given by the chartered accountant in terms of generally accepted costing principles. The following parameters may be considered by the cost accountant to calculate the Value Addition in India:

- (a) Change in HSN at 6-digit level: The final product (Advance Chemistry Cell) should be achieved as a result of change in a HSN (as per the Customs Tariff Act, 1975) at the six digit level (of the final product manufactured vis-a-vis the goods procured for the manufacturing activity) on account of manufacturing activity undertaken by the Beneficiary Firm, or by the indigenous manufacturer, respectively.
- (b) The final process of manufacture is performed in India. The term “manufacture” may mean processing of raw-material or inputs in any manner that results in emergence of new product having a distinct name, character, and use. In other words, to meet the qualifying criteria for the incentives, the Advance Chemistry Cell should be manufactured in India and have such percentage of localization as may be notified from

time to time. Reference to the term “manufacture” may be drawn from section 2(72) of Central Goods and Service Tax Act 2017.

- (c) Value Addition⁴ in respect of the Advance Chemistry Cell may be denominated as the ratio of 'actual value added' to the sale value (net of returns, price adjustments, discounts, etc.) of the said goods (ACCs), excluding indirect Taxes, if any paid on the goods. It may be expressed as the percentage of manufacturing activity being undertaken in India, either on its own or indigenous manufacturers. The 'actual value added' may be calculated on the basis of financial records (including turnover reported in GST returns) as per the following formulae:
- Sale value (net of returns, price adjustments, discounts, etc.) of the said goods, excluding indirect Taxes, if any, paid on the goods
 - **Less:** Cost of raw materials and/or packing materials consumed in the said goods (i.e. in the final sale price of the goods sold) to be calculated in terms of generally accepted costing principles
 - **Less:** Cost of material whose source of origin cannot be ascertained (beyond prescribed threshold)
 - **Less:** Cost of fuel consumed, if eligible for GST input credit
 - **Less:** Expenses incurred in foreign currency for royalty or technical know-how as debited in the income statement
 - **Add:** 'Actual value added by the indigenous manufacturers' i.e., ancillary unit or domestic manufacturers attributable to sale value (net of returns, price adjustments, discounts, etc.) of said goods
- (d) 'Actual value added by the indigenous manufacturers' is 'actual value added' (as per the above formulae) by such units in relation to sale (net of returns, price adjustments, discounts, etc.) considered by the Mother Unit (for computation of the 'actual cumulative value added' by the Mother Unit). The value (in absolute terms) of 'Actual value added by the ancillary unit or domestic manufacturers' may be validated basis the statutory auditor's certificate received from the respective indigenous manufacturer i.e., ancillary unit or domestic manufacturers.
- (e) The certificate from the statutory auditor may not be required where Value Addition by the indigenous manufacturer i.e., ancillary unit or domestic manufacturers is less than 2% (two per cent) (viz. calculated as percentage of actual value added by indigenous manufacturers to the sale value (net of returns, price adjustments, discounts, etc.) of ACCs manufactured by Mother unit) or INR 2,00,000 (Rupees two lakh) (gross amount), whichever is lower, in the corresponding period.

⁴ Similar procedure has been prescribed by the Central Government in the Notification No. 01/2010 – Central Excise, dated 06 February 2010

- (f) The ultimate onus to validate the Value Addition by indigenous manufacturers i.e., ancillary unit or domestic manufacturers would remain on the Beneficiary Firm.
- (g) The required Value Addition if achieved in one single integrated unit will also be acceptable.
- (h) Additionally, where the Beneficiary Firm is also engaged in manufacture of battery packs and a Value Addition till the cell stage could not be determined with the abovementioned approach, the percentage of value added calculated (as above) should be reduced by the fraction of battery pack in the total battery value produced to calculate the percentage of value added to manufacture ACCs. For example, if the Value Addition at the battery level is x%, and the fraction of battery pack in the total battery value produced is 34%, then the Value Addition at the cell level shall be $(x-34)/(100-34)$ %. The Beneficiary Firms shall be submitting to the Government, the information pertaining to the fraction of battery pack in the total battery value produced in India.
- (i) For the purpose of validation of claim, following documents may also be considered:
 - (i) Document issued by the concerned Director of Industries evidencing the commencement of commercial production.
 - (ii) Certificate by a statutory auditor certifying the quantity and value of finished goods procured.
 - (iii) Certificate by a statutory auditor certifying the breakup of the major components in the final value of finished goods sold (i.e., ACC Batteries). The major components shall constitute all those components that account for more than 2% (viz. calculated as percentage of actual value added by indigenous manufacturer to the sale value of ACC batteries manufactured by Mother Unit) or INR 2,00,000 (gross amount), whichever is lower, in the corresponding period.
 - (iv) Certificate by statutory auditor certifying the reconciliation of value and quantity of ACCs manufactured, traded, sold as scrap, stock transferred, and GST paid vis a vis the amount of reported in financial statements and GST returns.
 - (v) Audited account for the relevant Financial Year.
 - (vi) Monthly GST in respective quarter and GST audit report for the most recent Financial Year for the company.
 - (vii) Self-certification by the authorized signatory of the Beneficiary Firm, claiming the intended end-use (category mobile and stationary) of the ACCs sold under the Programme.

- (viii) Results of the testing by the independent laboratory as per Schedule-D of this Agreement certifying the Subsidy parameters (energy density and cycle life) of the sold cells

SCHEDULE – F

PERFORMANCE SECURITY

The Director,
Ministry of Heavy Industries,
Government of India

WHEREAS:

- (A) (the “**Beneficiary Firm**”) and The Government of India (“**GoI**”), through the Ministry of Heavy Industries (hereinafter referred to as the “**Government**” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) have entered into a Programme Agreement dated (the “**Agreement**”) for pre-qualification and short-listing of bidders entitled to receive a Subsidy on the basis of the Advance Chemistry Cells manufactured by it (including Committed Capacity and Advance Chemistry Cell’s Value Addition in India)
- (B) The Agreement requires the Beneficiary Firm to furnish a Performance Security to the Government in a sum of INR***** (the “**Guarantee Amount**”) as security for due and faithful performance of its obligations, under and in accordance with the Agreement.
- (C) We, through our Branch at (the “**Bank**”) have agreed to furnish this Bank Guarantee by way of Performance Security.

NOW, THEREFORE, the Bank hereby, unconditionally, and irrevocably, guarantees and affirms as follows:

1. The Bank hereby unconditionally and irrevocably guarantees the due and faithful performance of the Beneficiary Firm’s obligations during the Term of the Agreement, under and in accordance with the Agreement, and agrees and undertakes to pay to the Government, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Beneficiary Firm, such sum or sums up to an aggregate sum of the Guarantee Amount as the Government shall claim, without the Government being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.
2. A letter from the Government, that the Beneficiary Firm has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Government shall be the sole judge as to whether the Beneficiary Firm is in default in due and faithful performance of its obligations during the Term under the Agreement and its decision that the Beneficiary Firm is in default shall be final, and binding on the Bank, notwithstanding any differences between the Government and the Beneficiary Firm, or any Dispute between them pending before any court, tribunal, arbitrators or any other the Government or body, or by the discharge of the Beneficiary Firm for any reason whatsoever.

3. In order to give effect to this Guarantee, the Government shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Beneficiary Firm and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.
4. It shall not be necessary, and the Bank hereby waives any necessity, for the Government to proceed against the Beneficiary Firm before presenting to the Bank its demand under this Guarantee.
5. The Government shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Agreement or to extend the time or period for the compliance with, fulfilment and/ or performance of all or any of the obligations of the Beneficiary Firm contained in the Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Government against the Beneficiary Firm, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to the Government, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Government of the liberty with reference to the matters aforesaid or by reason of time being given to the Beneficiary Firm or any other forbearance, indulgence, act or omission on the part of the Government or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.
6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Government in respect of or relating to the Agreement or for the fulfilment, compliance and/or performance of all or any of the obligations of the Beneficiary Firm under the Agreement.
7. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force for the Term of the Agreement and unless a demand or claim in writing is made by the Government on the Bank under this Guarantee, no later than 6 (six) months from the date of expiry of this Guarantee, all rights of the Government under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.
9. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Government in writing and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.
10. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred Branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Government that the envelope was so posted shall be conclusive.

11. This Guarantee shall come into force with immediate effect and shall remain in force and effect for a period of the Agreement from the date hereof or until it is released earlier by the Government pursuant to the provisions of the Agreement.

Signed and sealed this day of, 20..... at

SIGNED, SEALED AND DELIVERED

For and on behalf of
the BANK by:

(Signature)

(Name)

(Designation)

(Code Number)

(Address)

NOTES:

- (i) The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.

The address, telephone number and other details of the Head Office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing Branch.

SCHEDULE – G

DEFINITION OF ADVANCE CHEMISTRY CELL

Advance Chemistry Cells (“ACCs”) are the new generation technologies that can store electric energy either as electrochemical or as chemical energy and convert it back to electric energy as and when required. Globally, manufacturers are investing in these new generation technologies at commercial scale to fill the expected boom in battery demand through 2030. Under the said Programme, these technologies shall comprise of ACCs and integrated advanced batteries (Single Units) that suffice the minimum performance specifications as provided hereunder.

The minimum technical specifications of ACCs shall be as provided in the regions hereunder (shaded):

ACC Eligibility Matrix:

| | | Energy density (Wh/kg) | | | | |
|------------|---------|------------------------|-------|-------|-------|-------|
| | | ≥ 50 | ≥ 125 | ≥ 200 | ≥ 275 | ≥ 350 |
| Cycle Life | ≥ 1000 | | | | | |
| | ≥ 2000 | | | | | |
| | ≥ 4000 | | | | | |
| | ≥ 10000 | | | | | |

Both the performance parameters i.e., energy density and cycle life have to be demonstrated at same level of Depth-of-Discharge.

SCHEDULE – H

REQUEST LETTER TO THE GOVERNMENT FOR AVAILING CASH SUBSIDY

Date: xx/xx/xxxx

From
XXXXXX (Beneficiary Firm's Name, Address, E-mail, and phone number)

To
The Director,
Ministry of Heavy Industries
Government of India,
Udyog Bhawan, Rafi Marg, New Delhi- 110011

Sir/Madam,

Subject: Request for release of Subsidy against Subsidy eligibility certificate XXXXXX received dated XXXXXX.

With reference to above mentioned Subsidy eligibility certificate number xxxxxxxx, assigned by Ministry of Heavy Industries dated xxxxxxxx, M/s/ xxxxxxxxx (beneficiary name) hereby submits its application for release of eligible Subsidy under "National Programme on Advance Chemistry Cell (ACC) Battery Storage" for the period xxxxx – xxxxxx (quarter), in accordance with Clause 11.2 of the Programme Agreement dated [●] signed between the Government and the xxxxxxxxx (Beneficiary Firm's name).

xxxxxxxx (Beneficiary Firm's name) has successfully sold xxxx cells of xxxxx kWh each capturing xx% value in India during the aforementioned quarter. The overall calculated Subsidy therefore comes out as INR xxxx/-.

In this regard, Government may kindly do the needful to release the eligible Subsidy of INR XXXX against the verification of following enclosures.

Enclosures (✓ mark the appropriate box)

- | | |
|--|--------------------------|
| 1. Undertaking for Subsidy parameters (energy density and cycle life) of the sold cells in line with current Subsidy certification | <input type="checkbox"/> |
| 2. Subsidy determination form | <input type="checkbox"/> |
| 3. Certificate for Value Addition in India | <input type="checkbox"/> |
| 4. Certified statements by statutory auditor evidencing receipt of quantum and value of raw material, inputs, semi-finished goods, capital goods, and finished goods, along with the respective Tax credit (if applicable) | <input type="checkbox"/> |
| 5. Certificate from statutory auditor certifying the sales and capacity of manufactured goods/trading goods/scrap/ stock transfer and GST paid on the amount of sales reported in financial statements and GST returns | <input type="checkbox"/> |

6. Unit level audited accounts for the relevant Financial Year issued by a statutory auditor (if and as applicable), or

—

7. Monthly GST in respective quarter and GST audit report for the most recent Financial Year for the Beneficiary Firm

Note: Above template to be used for all models (HSN no) of cells produced and sold by the manufacturer

Yours Sincerely,

Authorized Signature of beneficiary with date and seal:

Name of the Authorized person with contact number:

Designation

Company Seal

SCHEDULE – I

UNDERTAKING FOR SUBSIDY PARAMETERS

(For the purpose of releasing Subsidy under “National Programme on Advance Chemistry Cell (ACC) Battery Storage”)

| | |
|--|---|
| Beneficiary Name | CIN Number |
| | |
| Subsidy eligibility certificate No. | Subsidy eligibility certificate validity |
| | |
| From Month | To Month |
| | |

I, _____ (Name, authorized signatory), on behalf of M/s _____ (Beneficiary name) being an applicant for release of Subsidy under “National Programme on Advance Chemistry Cell (ACC) Battery Storage” with LOA number _____ (Bid LOA number) hereby confirm that cells sold during the period _____ to _____ (quarter months) conform to the technical specifications (cycle life and energy density) as per Subsidy eligibility certification no, _____ which is valid from _____ till _____ (expiry date of Subsidy eligibility certification).

.....
Authorized Signatory with date, Name and Seal
(Name of Beneficiary)
Designation

Company Seal

Note: Manufacturer to submit the undertaking for all models of cells produced and sold

SCHEDULE – J

CERTIFICATE FOR VALUE ADDITION IN INDIA

(For the purpose of releasing Subsidy under “National Programme on Advance Chemistry Cell (ACC) Battery Storage”)

| | |
|--|---|
| Beneficiary Name | CIN Number |
| | |
| Subsidy eligibility certificate No. | Subsidy eligibility certificate validity |
| | |
| From Month | To Month |
| | |

- a. HSN code (6-digit) of the factory output:
- b. Is the final manufacturing done in India? (Y/N)

Calculation for “actual value added”

- i. Sale value of the said goods, excluding Taxes, if any, paid on the goods (INR) _____
- ii. Cost of raw materials and packing materials consumed in the said goods (i.e. in the sale price of the goods sold) to be calculated in terms of generally accepted costing principles (INR) _____
- iii. Cost of material whose source of origin cannot be ascertained (beyond prescribed threshold) (INR) _____
- iv. Cost of fuel consumed (if eligible for GST input credit) (INR) _____
- v. Expenses incurred in foreign currency for royalty or technical know-how as debited in the income statement (Directly or through intermediate Company) (INR) _____
- vi. Actual value added by the indigenous manufacturers’ attributable to sale value of said goods (INR) _____
- vii. **Actual value added** (i-ii-iii-iv-v+vi) (INR) _____

Value Addition by the Beneficiary Firm

- viii. Total sales of the ACC during the period (excluding Taxes) (INR)
- ix. Value Addition (=vii/viii) (%) _____

If the Beneficiary Firm is also engaged in battery pack manufacturing and Value Addition cannot be ascertained at the cell level

- x. Does the Beneficiary Firm manufacture battery packs? (Y/N)
- xi. If Yes, actual value added $(ix - f) / (100 - f)$ (%) _____

Where f is the fraction of battery pack in the total battery value produced

Note: Above template to be used for all models (HSN no) of cells produced and sold by the manufacturer

.....
Authorized Signatory with date, Name and Seal
(Name of Beneficiary)

Designation.....

Company Seal

Verified by
.....
Name of Statutory Auditor

Company Seal

SCHEDULE – K

CONSTRUCTION SCHEDULE

I. Obligations prior to the Appointed Date

The Beneficiary Firm shall submit the following documents to the Government within a period of 90 (ninety) days from the Execution Date:

- (a) Clearances / approvals required from various government departments/ local bodies;
- (b) Timelines in relation to construction related activities for the Project;
- (c) Timelines for obtaining Applicable Permits; and
- (d) PERT chart of construction activities,

(collectively “**Construction Plan**”)

II. Obligations after to the Appointed Date

1. The Beneficiary Firm shall submit a quarterly progress report to the Government which shall include information on the progress of construction of the Project and the reasons for delay in construction of the Project, if any.
2. The Government reserves the right to appoint an Independent Engineer for monitoring the activities related to construction of the Project.
3. The construction period of the Project shall commence from the Appointed Date. If the Beneficiary Firm anticipates achievement of commercial operation of the Project, it shall intimate the Government 15 (fifteen) days prior to such date of commercial operation of the Project.
4. The Government shall provide a detailed list of documents required in relation to commercial operation of the Project to the Beneficiary Firm. The Beneficiary Firm shall thereafter, to the satisfaction of the Government/Independent Engineer, submit all the documents evidencing commercial operation of the Project to the Independent Engineer.
5. The Government shall accordingly inspect the Project and confirm if the Project is fit for commercial operation. Upon a satisfactory inspection of the Project, the Government/Independent Engineer shall issue the commissioning certificate to the Beneficiary Firm.

Below is the sample / indicative construction plan of the manufacturing facility⁵

| Milestone | Activity | Duration |
|------------------|---|-----------------|
| I | Land acquisition and preparation | |
| | Receiving statutory clearances | |
| II | Commencement of factory construction | |
| | Equipment manufacturing/ sourcing | |
| III | 1st stage equipment: (Please mention relevant equipment for first stage) | |
| IV | 2nd stage equipment: (Please mention relevant equipment for second stage) | |

⁵ **Note:** The construction plan set out in the table is for reference purpose only. The bidder may customize the construction plan and share the same with Government.

| Milestone | Activity | Duration |
|------------------|--|-----------------|
| VI | nth stage equipment: (Please mention relevant equipment for n th stage) | |
| VII | Commissioning | |
| VIII | Trial run | |
| IX | Final commissioning and commencement of production | |

SCHEDULE – L

SELECTION OF INDEPENDENT ENGINEER

(See Clauses 9.1 and 9.2)

1. Selection of Independent Engineer

- 1.1 The provisions of Part II of the Standard Bidding Documents for Consulting Assignments. Time Based (Volume V) issued by the Ministry of Finance, GOI in July, 1997 or any substitute thereof shall apply, *mutatis mutandis*, for invitation of bids and evaluation thereof save as otherwise provided herein.
- 1.2 The Government shall invite expressions of interest from consulting firms or bodies corporate to undertake and perform the duties and functions set forth in the Programme Agreement and thereupon shortlist qualified firms in accordance with pre-determined criteria. The Government shall convey the aforesaid list of firms to the Beneficiary Firm for scrutiny and comments, if any. The Beneficiary Firm shall be entitled to scrutinise the relevant records of the Government to ascertain whether the selection of firms has been undertaken in accordance with the prescribed procedure and it shall send its comments, if any, to the Government within 15 (fifteen) days of receiving the aforesaid list of firms. Upon receipt of such comments, if any, the Government shall, after considering all relevant factors, finalise and constitute a panel of firms (the “**Panel of Firms**”) and convey its decision to the Beneficiary Firm.
- 1.3 The Government shall invite the aforesaid Panel of Firms to submit their respective technical and financial offers, each in a separate sealed cover. All the technical bids so received shall be opened and pursuant to the evaluation thereof, the Government shall shortlist 3 (three) eligible firms on the basis of their technical scores. The financial bids in respect of such 3 (three) firms shall be opened and the order of priority as among these firms shall be determined on the basis of a weighted evaluation where technical and financial scores shall be assigned respective weights of 80:20.
- 1.4 In the event that the Government shall follow the selection process specified in the model request for proposal (“**Model RFP**”) for selection of Technical Consultant, as published by the Ministry of Finance, the selection process specified in this Schedule – L shall be deemed to be substituted by the provisions of the said Model RFP and the Beneficiary Firm shall be entitled to scrutinize the relevant records forming part of such selection process.

2. Fee and expenses

- 2.1 In determining the nature and quantum of duties and services to be performed by the Independent Engineer during the Term of the Programme Agreement, the Government shall endeavour that payments to the Independent Engineer on account of fee and expenses do not exceed INR [•].

3. Appointment of Government entity as Independent Engineer

- 3.1 Notwithstanding anything to the contrary contained in this Schedule - L, the Government may in its discretion appoint a government-owned entity as the Independent Engineer; provided that such entity shall be a body corporate having as one of its primary function the provision of

consulting, advisory and supervisory services for engineering projects; provided further that a Government- owned entity which is owned or controlled by the Government shall not be eligible for appointment as an Independent Engineer.

SCHEDULE – M

TECHNICAL BID SUBMITTED BY THE BIDDER

SCHEDULE – N

TRUE-UP OF SUBSIDY PAYMENTS IN CASE OF DEVIATION IN CYCLE LIFE TEST RESULTS

The Subsidy to the manufacturer will be disbursed based on the output of the partial life cycle test, however, the same would be provisional subject to the cell demonstrating the complete cycle life in due course. Following is an illustration for the calculation of the Subsidy amount to be paid to the manufacturer.

Subsidy payment based on invoice raised by manufacturer as per results of partial cycle life test. Considering a particular lot “i” of Subsidy payment to the manufacturer where:

1. Quantity of cells sold (kWh) during the period and for which Subsidy was claimed based on the results of the partial cycle life test: $[(CS)]_i$ kWh
2. Effective Subsidy as per the energy density and partial cycle life testing results: INR s / kWh
3. Percentage of Value Addition in India: $c_i\%$
4. Subsidy amount paid (S_i): INR ($[(CS)]_i \times s \times c_i$)

Where, S_i refers to the Subsidy paid for i th lot based on the results of partial cycle life

In case, the results of the complete cycle life testing of the cell demonstrates a cycle life which changes its position in the ACC matrix (as shown in Schedule G) and leads to a reduced or increased Subsidy being applicable, an appropriate truing up of the Subsidy amount will be done.

Following sections elaborate the methodology for truing-up of Subsidy amount in case of variations in partial cycle life and complete cycle life test which results in change in position of the cell in the ACC matrix.

CASE I: When cycle life demonstrated through complete cycle life testing is less than partial cycle life testing.

In this case, a penalty will be levied upon the cell manufacturer if the position in the ACC matrix changes from a higher applicable Subsidy to a lower applicable Subsidy amount. To determine the amount of penalty, the results of the complete cycle life test must be obtained. The penalty (per kWh) to be levied would be the difference of the following:

Subsidy (per kWh) which the manufacturer was originally paid corresponding to its position in the ACC matrix based on cycle life determined through partial cycle life test, and

Subsidy (per kWh) corresponding to its position in the ACC matrix based on cycle life determined through complete cycle life test.

The total amount to be levied as penalty on the manufacturer would be the difference of these two Subsidy amounts multiplied by the total volume of cells (in kWh) sold (for which the Subsidy was claimed) and the Value Addition.

The penalty amount would be deducted from future invoices submitted by the manufacturer. The detailed methodology for determining the penalty is mentioned below.

Calculation of penalty to be levied on manufacturer

1. New effective Subsidy: INR s' / kWh
2. Difference in effective subsidies: INR $(s - s') / \text{kWh}$
3. Penalty applicable for each lot of Subsidy paid (P_i) = INR $(CS_i \times (s - s') \times c_i)$

Where,

P_i is the penalty applicable for i^{th} lot of Subsidy payment

4. Total applicable penalty: $\sum_{i=1}^N P_i$

Where, N = total lots of Subsidy payment for which penalty is applicable

CASE II: When cycle life demonstrated through complete cycle life testing is more than partial cycle life testing.

In this case, an additional amount will be paid back to the cell manufacturer if the position in the ACC matrix changes from a lower applicable Subsidy to a higher applicable Subsidy amount. To determine the additional amount to be paid back, the results of the complete cycle life test must be obtained. The additional amount (per kWh) to be paid back would be the difference of the following:

Subsidy (per kWh) corresponding to its position in the ACC matrix based on cycle life determined through complete cycle life test, and

Subsidy (per kWh) which the manufacturer was originally paid corresponding to its position in the ACC matrix based on cycle life determined through partial cycle life test.

The additional amount to be paid to the manufacturer would be the difference of these two Subsidy amounts multiplied by the total volume of cells (in kWh) sold (for which the Subsidy was claimed) and the Value Addition.

This additional amount would be paid back along with the payments against future invoices raised by the manufacturer. The detailed methodology for determining the additional amount is mentioned below.

Calculation of additional amount to be paid to manufacturer

1. New effective Subsidy: INR s'' / kWh
2. Difference in effective subsidies: INR $(s'' - s) / \text{kWh}$
3. Additional amount applicable for each lot of Subsidy paid (R_i) = INR $(CS_i \times (s'' - s) \times c_i)$

Where,

R_i is the additional amount applicable for i^{th} lot of Subsidy payment

4. Total additional amount to be paid: $\sum_{i=1}^N R_i$

Where, N = total lots of Subsidy payment for which the payment of additional amount is applicable

SCHEDULE-O

FORMAT FOR MILESTONE COMPLETION CERTIFICATES

MILESTONE 1 COMPLETION CERTIFICATE

Date: xx/xx/xxxx

From

XXXXXX (*Independent Engineer's Name, Address, E-mail, and Phone Number*)

To

[*The Beneficiary Firm's Name and Address*]

Sir/Madam,

Subject: Issuance of Milestone 1 Completion Certificate for the achievement of Committed Capacity and Value Addition at the end of second year from the Appointed Date.

This is in reference to the inspection of relevant documents and the Project to determine the compliance by xxxxxx (name of the Beneficiary Firm) with fulfillment of Milestone 1, in accordance with Clause 12.3 of the Programme Agreement signed between the Government and the xxxxxx (name of the Beneficiary Firm).

We, xxxxxx (name of the Independent Engineer), have completed the inspection of relevant documents and the Project, and certify that for the achievement of Milestone 1:

1. xxxxxx (name of the Beneficiary Firm) has invested INR xxxxxx (Investment amount in figures and words) per GWh (exclusive the cost of land) for the Committed Capacity xxx GWh as on xxxxxx (Date) at the end of second year from the xxxxxx (Appointed Date). The inspection for Committed Capacity was completed on xxxxxx (Date).
2. xxxxxx (name of Beneficiary Firm name) has achieved xxxxxx (% Value Addition) of the Advance Chemistry Cell as on xxxxxx (Date) at the end of second year from the xxxxxx (Appointed Date). The inspection for Value Addition was completed on xxxxxx (Date).

Yours Sincerely,

.....
Name and signature of Independent Engineer

Company Address and Seal

MILESTONE 2 COMPLETION CERTIFICATE

Date: xx/xx/xxxx

From

XXXXXX (*Independent Engineer's Name, Address, E-mail, and Phone Number*)

To

[*The Beneficiary Firm's Name and Address*]

Sir/Madam,

Subject: Issuance of Milestone 2 Completion Certificate for the achievement of overall Value Addition within five years from the Appointed Date.

This is in reference to the inspection of relevant documents and the Project to determine the compliance by xxxxxx (name of the Beneficiary Firm) with fulfilment of Milestone 2, in accordance with Clause 12.3 of the Programme Agreement signed between the Government and the xxxxxx (name of the Beneficiary Firm).

We, xxxxxx (name of the Independent Engineer), have completed the inspection of relevant documents and the Project, and certificate that for the achievement of Milestone 2 xxxxxx (name of the Beneficiary Firm) has achieved xxxxxx (% Value addition) of the Advance Chemistry Cell as on xxxxxx (Date) within five years from the xxxxxx (Appointed Date). The inspection for Value Addition was completed on xxxxxx (Date).

Yours Sincerely,

.....
Name and signature of Independent Engineer

Company Address and Seal