

PRGFEE BANK GUARANTEE

Bank Guarantee No.:

Dated:

To,

[Name and address

of the Participating Financial Institution]

This Deed of Guarantee (“**PRGFEE Guarantee**”) is executed by [*Complete Name and address of the Issuing Bank*] (herein after referred to as “**Bank**”) in favour of [*Complete Name and address of the Participating Financial Institution*] (hereinafter referred to as the “**Beneficiary**” or “**EE Loan Lender**” which expression shall, unless repugnant to the context thereof, include its successors, assignees, novatees and transferees) for a maximum amount not exceeding Rs.[●]/- (Rupees [●] only) (hereinafter referred to as the “**Guarantee Amount**”) payable in the manner stated herein, at the request of **REC Power Distribution Company Ltd.**, a company incorporated under the Companies Act, 1956, having its registered office at Core-4, Scope Complex, 7, Lodhi Road New Delhi- 110003 and its corporate office at 1016-1023, 10th Floor, Devika Tower, Nehru Place, New Delhi – 110019 (hereinafter referred to as the “**Implementation Agency**” or “**IA**” which expression shall, unless repugnant to the context thereof, include its successors, assignees, novatees and transferees).

1. The EE Loan Lender had approached the Implementation Agency with a request that the project of the Borrower be appraised by the Implementation Agency from the perspective eligibility for avilment of the benefit under the Partial Risk Guarantee Fund for Energy Efficiency (“**PRGFEE**”) being managed by the Implementation Agency pursuant to the terms of the Implementation Agency Agreement dated July 16, 2015 (“**IA Agreement**”) and the Operations Manual (“**OM**”). Pursuant to such request, the Implementation Agency has approved the project of the Borrower (as defined hereinafter) for drawing benefit under PRGFEE vide its guarantee approval letter dated [●].
2. Subsequently, the EE Loan Lender has agreed to extend facilities aggregating to Rs. [●] /- (Rupees [●] Only) (“**Facility**”) in terms of the facility/loan agreement dated [●] entered into by and between the EE Loan Lender and [*Complete Name and address of the Energy Services Company availing the loan facility*] (hereinafter referred to as the “**Borrower**” or “**ESCO**”, which expression shall, unless repugnant to the context thereof, include its successors and permitted assigns). Simultaneously, the EE Loan Lender and the Implementing Agency have entered into the Guarantee Agreement dated [●], 2015 and pursuant to the terms thereof the Implementing Agency had instructed the Bank to issue this PRGFEE Guarantee up to the maximum extent of the Guarantee Amount.

3. Accordingly, the Bank does hereby undertake to pay, immediately upon receipt of demand from the EE Loan Lender (substantially in the format annexed hereto) (“**Demand Notice**”) along with the approval letter from the Implementation Agency confirming the claim to be released to the EE Loan Lender (“**Guarantee Claim Approval Letter**”) in accordance with the terms of the OM and without any demur or protest, 75% of the Guarantee Amount or as may be approved by the Implementing Agency vide the Guarantee Claim Approval Letter. The Guarantee Amount, or part thereof, as may be claimed under the Demand Notice, shall be credited to the bank account of the Beneficiary specified in the Demand Notice or by way of a demand draft drawn in favour of the Beneficiary. Any demand made on the Bank by way of a Demand Notice shall be conclusive as regards the amount due and payable by the Bank under this Bank Guarantee on or before the claim expiry date. Thereafter, the Bank shall release the remaining 25% of the Guarantee Amount in accordance with the terms of the Demand Notice.
4. Subject to the provisions hereof, the Bank’s liability hereunder shall be absolute and unequivocal and the Bank undertakes to pay to the EE Loan Lender any amount of money so demanded upto the Guarantee Amount, without any delay, demur or reference to the Borrower and notwithstanding any dispute or disputes raised by the Borrower in any suit or proceeding pending before any court or tribunal relating thereto. The payment made by the Bank under this Bank Guarantee pursuant to any Demand Notice shall be a valid discharge of its liability for payment hereunder and the Borrower shall have no claim against the Bank for making such payment.
5. The Bank agrees that this Bank Guarantee shall remain in force from _____ until _____ (“**Expiry Date**”) and unless a demand or claim hereunder is made on the Bank until 60 days after the Expiry Date (“**Claim Date**”) of this Bank Guarantee in writing and paid by the Bank in accordance with the terms hereof, and the Bank shall be discharged from all liabilities under this Bank Guarantee thereafter.
6. The issuance of this Bank Guarantee shall not have the effect of deemed acceptance of the Bank to renew this Bank Guarantee or issue any further bank guarantees in relation to the Borrower or the Facility.
7. The EE Loan Lender shall have the fullest liberty, without the Bank’s consent and without affecting in any manner the Bank’s obligations hereunder, to vary any of the terms and conditions of the Facility and to forbear or enforce any of the terms and conditions there under. The Bank agrees that no change or addition to or other modification of the terms of the Facility Agreement shall in any way release the Bank from any liability under this Bank Guarantee and hereby waives notice of any such change, addition or modification. However, the EE Loan Lender shall always be bound by the terms of the OM and the Bank shall only be liable to honour any claim of the EE Loan Lender if the same has been raised on the Bank in accordance with the terms of the OM.
8. This Bank Guarantee will not be discharged due to the change in the constitution of the Bank or the Borrower or Implementation Agency or the EE Loan Lender.
9. The EE Loan Lenders shall not assign or transfer all or any of its rights, benefits and obligations under the Bank Guarantee.

10. The Bank undertakes not to revoke and not cause the revocation of this Bank Guarantee during its currency except with the prior consent (in writing) of the EE Loan Lender/BENEFICIARY
11. The liability of the Bank under this Bank Guarantee shall not be affected on account of:
 - i) any change in the constitution or winding up of the Borrower/the Bank or the EE Loan Lender or any absorption, merger or amalgamation of the Borrower/the Bank or the EE Loan Lender; or
 - ii) any change in the management of the Borrower/the Bank or the EE Loan Lender or take over of the management of the Borrower/the Bank or the EE Loan Lender by any Government or by any other authority; or
 - iii) acquisition or nationalization of the Borrower/the Bank or the EE Loan Lender and/or of any of their undertaking(s) pursuant to any law; or
 - iv) bankruptcy/insolvency of the Bank or the Borrower.
12. This Bank Guarantee shall be governed by the laws of India. The courts / tribunals at New Delhi shall have exclusive jurisdiction in relation to all matters arising in relation to this Bank Guarantee. The EE Loan Lender/other beneficiaries of this Bank Guarantee shall be free to approach any court in NEW DELHI in connection with matters arising out of or in relation to this Bank Guarantee.
13. The Bank shall not in the event of the liquidation / insolvency of the Borrower prove in competition with the EE Loan Lender in the liquidation/insolvency proceedings in respect of any amounts to be recovered by the Bank from the Borrower pursuant to invocation of this Bank Guarantee and for assets exclusively charged to the EE Loan Lender by the Borrower.
14. Any sum or sums that are payable to the EE Loan Lender under this Bank Guarantee shall be paid at the place and in the account as specified in the Demand Notice.
15. The Bank shall be discharged from all its liabilities hereunder, upon full invocation of this Bank Guarantee and realization of the entire Guarantee Amount by the EE Loan Lender in terms hereof. No partial invocation is permitted.
16. The Bank hereby specifically accepts subject to the terms hereof that:
 - i) The Bank Guarantee shall be unconditional and absolute.
 - ii) The Bank Guarantee shall be without any delay or demur if claim arises.
 - iii) The Bank Guarantee shall guarantee all losses, claims, damages and costs suffered by the EE Loan Lender.
17. Any provision of the Bank Guarantee which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of prohibition or unenforceability but shall not invalidate the remaining provisions of the Bank Guarantee or affect such provision in any other jurisdiction.

18. The Bank represents that it has the requisite authority and the power to issue this Bank Guarantee in favour of the EE Loan Lender and hereby declares that Mr. [●], [●] of the Bank and Mr. [●], [●] of the Bank, are authorized to sign this Bank Guarantee on behalf of the Bank and to bind the Bank hereby.

Notwithstanding anything contained hereinabove:

- (a) Our liabilities under this Bank Guarantee shall not exceed Rs. _____/-.
- (b) This Bank Guarantee shall be valid up to _____ [Please insert Expiry Date].
- (c) We are liable to pay Guarantee Amount or any part thereof under this Bank Guarantee only and if we receive (if you serve upon us) a written claim or demand on or before [Please insert Claim Date] at ICICI Bank Ltd , 9-A , Phelps Building, Connaught Place New Delhi 110001 , thereafter we shall be discharged from all liabilities under this Bank Guarantee whether or not the original Bank Guarantee is returned to us.

For [Issuing Bank]

(Authorised Signatory)

(Name and Designation /SS NO)

(Note: In case, the Designee Bank/ Guarantee issuing bank is also the PFI for the ESCO loan, suitable undertaking may be obtained from IA in consultation with the legal counsel.)

ANNEX
FORM OF DEMAND CERTIFICATE

Date: [•]

To: [*Issuing Bank*]

Kind Attn[•]

Dear Sir,

Re: Bank Guarantee dated [•] and bearing no..... issued by [*Issuing Bank*](the “**PRGFEE Guarantee**”) for the maximum guarantee amount of Rs. _____/- (“**Guarantee Amount**”)

Please find enclosed the approval letter issued by REC Power Distribution Company Limited (“**Implementation Agency**”) approving our claim for the Guarantee Amount and authorizing the release of Rs. [•] under the PRGFEE Guarantee being 75% of the Guarantee Amount. Accordingly, we hereby give you this notice pursuant to the Bank Guarantee that we require you to pay such amount. We hereby agree that the remaining amount being 25% of the Guarantee Amount shall be released by you upon receipt of an intimation in that regard from Implementing Agency.

All amounts due should be paid through demand draft or telegraph transfer or RTGS (the details whereof are as follows)immediately and no later than 5 days from the date hereof:

Name of Beneficiary: [•]

[Account/RTGS Details]: [•]

Yours faithfully,

(Authorized Signatory)