

F. No. 32/6/2020-SPV Division
Government of India
Ministry of New & Renewable Energy

Block No. 14, CGO Complex
Lodhi Road, New Delhi

Date: 18 May 2020

Office Memorandum

Subject: Draft Guidelines and model PPA for Implementation of Off-Grid Solar Power Plants in RESCO model under MNRE Programme – for comments of stakeholders.

This refers to Ministry's Order of even number dated 24 April 2020 issuing extension of Off-grid and Decentralized Solar PV Applications Programme –Phase III till 31.03.2021. In the said Order, it was mentioned that under the extended Scheme, off-grid solar power packs will be installed only under RESCO mode for which Ministry will be issuing separate Guidelines.

2. Draft Guidelines for implementation of solar power packs under RESCO mode and draft model PPA for the same are hereby circulated for comments of all the stakeholders concerned. Comments/ suggestions on the draft Guidelines and draft PPA may kindly be provided by 25.05.2020 positively.



(Shobhit Srivastava)
Scientist-D

To

All Concerned Stakeholders

Draft Guidelines for Implementation of Off-Grid Solar Power Plants in RESCO model under MNRE Programme

1. Introduction

Energy access is a key determinant of social and economic development and human wellbeing. There is a greater requirement to accelerate energy access programs in rural areas where conventional grid is yet to reach or reliability of grid supply is not up to the desired level. Off grid solar systems, working independently or in tandem with the grid will be a viable solution for increasing energy access in these areas.

Under the Phase III of Off-grid and Decentralized Solar PV Applications Programme of MNRE, off-grid solar power plants of individual size up to 25 kWp can be installed in areas where grid power has not reached or is not reliable. Such plants are mainly aimed at providing electricity to Government schools, hostels, panchayats, police stations and other public service institutions. Vide Order No. 32/6/2020-SPV Division dated 24.04.2020 the Scheme has been extended up to 31.3.2021 and applicable only for North-eastern States for installation of off-grid solar PV plants through RESCO mode with Central financial assistance (CFA) of 90% of the benchmark cost of the system. Guidelines for implementation of Phase-III of Off-grid and Decentralized Solar PV Applications Programme were issued on 07.08.2018, and remain valid during the extended period of implementation.

2. Scope of the Guidelines

As per the Guidelines for Off-grid and Decentralized Solar PV Applications Programme Phase-III dated 07.08.2018, off-grid solar power plants up to 25 kWp capacity can be installed in areas where grid power has not reached or is not reliable. Such plants are mainly aimed at providing electricity to schools, hostels, panchayats, police stations and other public service institutions.

As the intended beneficiaries for off-grid solar power plants are public service institutions, there could be difficulty in arranging the beneficiary share in an upfront manner. Further, after guarantee period is over, continuing of O&M of plant an issue due to fund and technical constraints of the beneficiary. In order to effectively utilise the costly assets of solar PV system it is has been decided that such system should be operated through RESCO mode. These guidelines provide implementation framework for operation of off-grid solar PV systems through RESCO mode.

3. Salient Features of Off-grid solar PV Plants

With an objective to ensure proper repair and maintenance of the off-grid solar power plants to be installed under the Programme and promote efficiencies in operation, it has been decided to introduce RESCO model for such systems. The plants would be eligible for CFA at 90% of the benchmark cost. This CFA provided by MNRE would reduce the financial burden to a significant level, which otherwise is very high in per unit terms due to smaller size of plants and investment in storage batteries.

Under the programme, off-grid solar power plants can be installed in areas where the grid power is not available and areas where grid power though available is not reliable. Design aspects for both kinds of systems are given below:

(i) For Isolated Off-grid systems

- To bring down the cost by optimising the size of the required solar power plant, only energy efficient equipment e.g. LED lights, BLDC fans, etc. shall be used by the beneficiary.
- Daily energy requirement to be calculated based on load and running hours.
- Battery back-up sufficient for supplying power for two days may be kept.
- Wherever possible system should be designed for using only DC appliances.
- Solar PV capacity sufficient for required power supply including battery charging.
- Efficiency of equipment like charge controller, inverter and distribution losses in the system should also be accounted properly for calculating solar PV and battery capacity.
- MPPT inverter shall be used.
- MNRE/BIS specifications to be used for all system components.
- Solar power supplied from the system shall be metered at the point of delivery.
- Remote Monitoring System shall be deployed with the system.

(ii) For Grid connected system

- Off-grid solar PV system to be designed only for essential/emergency load.
- Energy efficient equipment e.g. LED lights, BLDC fans, etc. to be used for such essential/emergency load, which should be supplied through separate electric circuits.
- Daily energy requirement to be calculated based on load and running hours.
- Battery back-up sufficient to supply power for two days may be kept for essential/emergency load.
- Solar PV capacity sufficient for required power supply including battery charging.
- Efficiency of equipment like charge controller, inverter and distribution losses in the system should also be accounted properly for calculating solar PV and battery capacity
- MPPT hybrid inverter shall be used.
- MNRE/BIS specifications to be used for all system components
- Solar power supplied from the system shall be metered at the point of delivery.
- Provision to be made for feeding surplus power to the grid on net-metering basis.
- Remote Monitoring System shall be deployed with the system.

4. Implementation Models and Financial Assistance

The life of solar PV panels are considered 25 years, however, off-grid solar power plant involves equipment like batteries, charge controllers, MPPT invertors, etc., and under CAPEX mode such plants are guaranteed for five years by the vendors. Under RESCO model it is proposed that the vendor will install and operate the solar power plant of capacity up to 10 kWp for at least 10 years and solar PV plants of capacity above 10 kWp for at least 15 years. Solar power plants will be installed by the RESCO on BOOT basis. After completion of this time period the plant will be handed over to the beneficiary in operating condition.

The MNRE benchmark cost covers cost of complete system, transportation of material at site, installation, commissioning, insurance and AMC for five years. MNRE CFA will be available on benchmark cost.

The solar power plant shall be designed to supply daily minimum guaranteed power (DMGP) to the beneficiary at the delivery point. The RESCO Company selected through competitive bidding will install the plant and operate the plant to supply DMGP to the beneficiary organization at the discovered tariff for the aforementioned period. The beneficiary will make payment to the RESCO company according to the DMGP. The company will undertake to provide the services for the specified period and submit bank guarantee for an amount equivalent to 50% of the eligible MNRE CFA. The bank guarantee will be released annually in five equal instalment after a period of first five years of successful operation of plant, i.e. the bank guarantee will be released from 6th year to 10th year.

There could be two different financial models for operating solar power plant depending upon payment of CFA:

- (i) **Upfront payment of CFA:** The MNRE CFA of 90% of the benchmark cost will be paid upfront after successful commissioning of plant.
- (ii) **Payment of CFA in instalments:** To enable availability of funds at the time of replacement of batteries, the CFA may be released in instalments.
 - a. 50% of MNRE CFA at the time of commissioning and balance 50% CFA at the end of five years, or replacement of batteries, whichever is later. This option will be available for project up to 10 kWp capacity. This will ensure smooth operation of plant for the complete period of contract of 10 years.
 - b. For projects of capacity more than 10 kWp and up to 25 kWp having a 15 years contract, MNRE CFA will be released in three instalments. 50% of MNRE CFA will be released at the time of commissioning; second instalment of 25% of CFA will be released at the end of five years, or first replacement of batteries, whichever is later. Balance 25% of CFA will be released at the end of ten years, or second replacement of batteries, whichever is later.

5. Submission of Proposals

Proposals for installation of off-grid solar power plants will be submitted by the State Nodal Agencies. MNRE may also appoint an expert PSU for preparation of DPRs, preparing RfS, conducting tendering process for selection of RESCO, monitoring of installation and commissioning, etc. Proposals will be placed before the Screening Committee once in each quarter. Projects recommended by the Screening Committee will be sanctioned.

The implementing agency, SNA or expert PSU as the case may be would be eligible to get the applicable service charges.

6. Selection of RESCO

RESCO Company will be selected through open competitive bidding to be conducted by implementing agency. Bidders will be invited to submit proposals for installation of the off-grid solar power plant at the specified location for 10/15 years based on plant capacity. Bidder quoting the lowest tariff for supply of power to the beneficiary organization, will be eligible for award of project.

Implementing agency shall reserve the right to negotiate the L1 bid with the concerned bidder to ensure affordability to the beneficiary organization and efficient use of public funds provided as CFA under the project. This includes the option of rejecting the offer, if it is felt that the tariff offered is not commensurate with the market trends.

7. Tariff Estimation

A representative system of 4 kWp has been considered for estimation of tariff. Average daily solar power generation per kWp of solar panel is considered 2.5 kWh as NE Region has lesser sunny days and low solar radiation levels. Therefore, the daily minimum guaranteed solar power would be 10 kWh. With battery back-up of 7.2 VAh per Wp total battery requirement would be 28.8 kWh. It is assumed tubular-gel batteries having life of 4-5 years would be used and required to be replaced only once (at power producer's cost) during the contract period of 10 years. MNRE benchmark cost has been considered for arriving total cost of project. The developer will arrange loan @ 12% for investment in the project. Tariff estimation has been done for following two cases:

Case I : subsidy is paid upfront

In this case the levelised tariff discovered is Rs. 5.96 per kWh (Annexure-I)

Case II : 50% subsidy is paid upfront and balance 50% after completion of 5 years

In this case the levelised tariff discovered is Rs. 9.55 per kWh (Annexure-II).

The above calculations are representative only and the tariff may be calculated by the bidder based actual cost of finance, expected return on equity, O&M cost, working capital, depreciation, site requirements, etc. It is expected that the bidders will make all necessary efforts to bring down the tariff by using prudent technical and financial efficiencies.

8. Power Purchase Agreement

The Power Producer i.e. RESCO and Power Purchaser i.e. beneficiary organization shall sign a PPA. Power producer shall be responsible to design, install, operate and maintain the solar power plant to supply daily minimum guaranteed power (DMGP) to the beneficiary and beneficiary will make payment for the DMGP at tariff decided through bidding process on monthly basis. In case the Power Producer fails to supply DMGP or power required by the beneficiary, whichever is less, the developer will be liable to pay penalty for the units supplied less than the DMGP at a rate specified in the PPA. The penalty could be two times of the rate at which power is supplied by the developer to the beneficiary.

9. Implementation Timelines

Project shall be installed and commissioned by the successful RESCO within 3 months from placement of award by implementing agency. Maximum extension of 3 months can be provided to RESCO, provided the reasons for delay are beyond the control of the RESCO. Any delay beyond 3 months will result in cancellation of award.

10. Monitoring

All solar power plants sanctioned under the Programme shall be provided with remote monitoring system. Access of remote monitoring system shall be provided to implementing

agency and MNRE. Implementing agency will submit quarterly performance data of solar power plant to MNRE in format prescribed by MNRE.

Detailed provisions elaborated under Para-8 'Monitoring' of the Guidelines dated 07.08.2018 may be referred for monitoring of solar power plants installed under RESCO mode.

11. Responsibilities of Implementation Agencies

Responsibilities of Implementation agency under these Guidelines are as under:

- (i) Conduct on-site survey of the beneficiary premises and prepare DPR, ascertaining fulfilment of the eligibility conditions for CFA, before submitting the proposals to MNRE.
- (ii) Conduct tender for selection of bidder for installation of solar power plant under RESCO mode
- (iii) Accept bank guarantee from the successful bidder, wherever required
- (iv) Online submission of quarterly progress reports.
- (v) Ensure project completion within the given timelines and compliance of MNRE Guidelines and Standards.
- (vi) Inspection of installed systems and submission of commissioning reports to MNRE.
- (vii) Disbursement of MNRE CFA and submission of utilization certificates and audited statement of expenditure through EAT module.
- (viii) Performance monitoring and evaluation.
- (ix) Any other activity to ensure successful implementation of the programme.

12. Technical Requirements

Systems installed under the Programme shall meet technical specifications and construction standards as specified by BIS and MNRE from time to time. Non-compliance will be taken seriously to the extent of blacklisting of the vendor, apart from taking action under any other law in force.

Only indigenously manufactured PV modules should be used in the Programme.

13. Interpretation of Guidelines

These Guidelines shall be read with the Off-grid and Decentralized Solar PV Applications Programme Phase-III Guidelines issued by Ministry on 07.08.2018. In case of any ambiguity in interpretation of any of the provisions of these guidelines, the decision of the Ministry shall be final.

Annexure-I

Daily minimum guaranteed power	10	kWh									
Solar PV capacity	4	kWp									
Battery (96 V)	300	Ah									
Benchmark cost	103000	Rs./kWp									
CFA	90%										
Battery replacement cost	136000	Rs.									
Interest Rate	12%										
Discount Factor	10%										
Total System Cost	412000	Rs.									
CFA amount	370800	Rs.									
CFA payment	100% Upfront										
Year	0	1	2	3	4	5	6	7	8	9	10
Net Investment by developer (Rs.)	41200					136000					
Loan payment against investment (Rs.)		7,292	7,292	7,292	7,292	7,292	45,019	45,019	45,019	45,019	45,019
Guaranteed power supply (kWh)		3650	3650	3650	3650	3650	3650	3650	3650	3650	3650
Tariff (Rs./kWh)		2.00	2.00	2.00	2.00	2.00	12.33	12.33	12.33	12.33	12.33

Levelised tariff (Rs./kWh)		5.96
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Annexure-II

Daily minimum guaranteed power	10	kWh									
Solar PV capacity	4	kWp									
Battery (96 V)	300	Ah									
Benchmark cost	103000	Rs./kWp									
CFA	90%										
Battery replacement cost	136000	Rs.									
Interest Rate	12%										
Discount Factor	10%										
System Cost	412000	Rs.									
CFA amount	370800	Rs.									
CFA payment	50% Upfront, 50% after 5 Yrs										
Year	0	1	2	3	4	5	6	7	8	9	10
Net Investment by developer (Rs.)	226600					-49400					
Loan payment against investment (Rs.)		40,105	40,105	40,105	40,105	40,105	26,401	26,401	26,401	26,401	26,401
Guaranteed power supply (kWh)		3650	3650	3650	3650	3650	3650	3650	3650	3650	3650
Tariff (Rs./kWh)		10.99	10.99	10.99	10.99	10.99	7.23	7.23	7.23	7.23	7.23

Levelised tariff (Rs./kWh)		9.55
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**DRAFT MODEL POWER PURCHASE AGREEMENT (PPA)
BETWEEN
CONTRACTOR AND PUBLIC INSTITUTION
FOR
DESIGN, MANUFACTURE, SUPPLY, ERECTION,
TESTING AND COMMISSIONING INCLUDING
WARRANTY, OPERATION & MAINTENANCE OF OFF-
GRID SOLAR PHOTOVOLTAIC POWER PLANTS IN
RESCO MODE**

This Power Purchase Agreement (PPA) is executed on ___ (date), __ (month), (year) at <location>between _____ Authorized representative of Purchaser<i.e. Public Institution>(detail address), (hereinafter referred to as "Purchaser")AND M/s (Name of Power Producer) (CIN No. _____), a company incorporated under the Companies Act, 1956/2013 having its registered office at_(detail address) (hereinafter referred to as "Power Producer" which expression shall, unless repugnant to the meaning or context hereof, be deemed to include its successors and assigns). The Purchaser and Power Producer are each individually referred to as a "Party" and collectively as the "Parties".

WHEREAS:

- A. The Power Producer has been notified as successful bidder by <Name of SNA/PSU> for "Design, Manufacture, Supply, Erection, Testing and Commissioning including Warranty, Operation & Maintenance of _____kWp Solar PV System at (building name)" (Project) and as per competitive bidding under RFS No_____dated _
- B. The Power Producer is engaged in the business of design, supply, erection, testing, commissioning, operating and maintenance power plants, including off-grid solar PV power projects.
- C. The Power Producer has agreed to install and operate a solar photovoltaic power plant of _____kWp capacity with _____ VAh battery capacity at the Premises after due inspection of the Premises as defined hereinafter and supply DMGP to Purchaser on the terms and conditions contained in this Agreement.
- D. The Purchaser has agreed to purchase the DMGP of the Project on the terms and conditions contained in this Agreement.

NOW THEREFORE in consideration of the mutual promises, conditions and covenants set forth herein, the Parties hereby agree as below:

1. Definitions and Interpretation

1.1 Definitions

In addition to other capitalized terms specifically defined elsewhere in the Agreement or unless the context otherwise requires the following words and phrases shall be defined as follows:

- (a) "Actual daily supply " means the amount of energy recorded by the Metering System during each day of the Term, pursuant to Section 5.2;
- (b) "Affiliate" means with respect to any specified Person, any other Person, directly or indirectly controlling, controlled by or under common control with such specified Person)
- (c) "Agreement" means this Power Purchase Agreement executed hereof, including the schedules, amendments, modifications and supplements made in writing by the Parties from time to time.
- (d) "Applicable Law" means, with respect to any Person, any constitutional provision, law, statue, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, guideline, Governmental Approval, consent

or requirement or any Governmental Authority in India having jurisdiction over such Person or its property, enforceable by law or in equity, including the interpretation and administration thereof such Governmental Authority.

- (e) "Assignment" has the meaning set forth in Section 14.1;
- (f) "Business Day" means any day other than Sunday or any other day on which banks in < name of the State> are required or authorized by Applicable Law to be closed for business;
- (g) "Commercial Operation Date" has the meaning set forth in Section 4. 3(b)
- (h) "Consents, Clearances and Permits" shall mean all authorization, licenses, approvals, registrations, permits, waivers, privileges, acknowledgements, agreements or concessions required to be obtained From or provided by any concerned authority for the purpose of setting up of the generation facilities and / or supply of power.
- (i) "Daily Minimum Guaranteed Power" shall be the minimum power that will be supplied by the Power Producer on daily basis to the Purchaser at delivery point.
- (j) "Delivery Point" shall be the single point, at a location mutually agreed by the Parties, in line with applicable regulation/ rules where Power is delivered by the Power Producer from the System to the Purchaser.
- (k) "Dispute" has the meaning set forth in Section 16.5 (b);
- (l) "Disruption Period" has the meaning set forth in Section 5.3 (c)
- (m) "Due Date" has the meaning set forth in Section 7.4;
- (n) "Effective Date" has the meaning set forth in Section 2;
- (o) "Estimated Remaining Payments" means as of any date, the estimated remaining Power Payments to be made through the end of the applicable Term, as reasonably determined by the Power Producer in accordance with Section 7.1;
- (p) "Expiration Date" means the date on which the Agreement terminates by reason of expiration of the Term.
- (q) "Force Majeure Event" has the meaning set forth in Section 11.1
- (r) "Governmental Approval" means any approval, consent, franchise, permit, certificate, resolution, concession, license or authorization issued by or on behalf of any applicable Governmental Authority for the purpose of setting up of the Project and / or for sale and purchase of Power of the Project pursuant to the Agreement.
- (s) "Governmental Authority" means any central, state, regional, district, town, city or municipal government, whether domestic or foreign, or any department, agency, bureau, or other administrative, regulatory or judicial body of any such government.
- (t) "Indemnified Persons" means the Purchaser Indemnified Parties or the Power Producer-indemnified Parties, as the context requires.
- (u) "Insolvency Event" means with respect to a Party, that either
 - i. Such party has (A) applied for or consented to the appointment of or the taking of possession by a receiver, custodian, trustee, administrator, liquidator on the likes 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) made a general assignment for the benefit of its creditors, (D) commenced a voluntary proceeding under any insolvency or

bankruptcy law; (E) filed a petition seeking to take advantage of any other law relating to the bankruptcy, insolvency, reorganization, winding up or composition or readjustment of debts; or (F) taken any corporate or other action for the purpose of effecting any of the foregoing; or

- ii. It is clarified that a dissolution or liquidation will not be an Insolvency Event if such dissolution or liquidation is for the purpose of a merger, consolidation or reorganization, and the resulting company retains credit worthiness similar to the dissolved or liquidated entity and expressly assumes all obligations of the dissolved and liquidated entity under this Agreement and is in a position to the perform them.
- (v) "Installation Work" means the construction and installation of the System and the Start-up, testing and acceptance (but not the operation and maintenance) thereof; all performed by or for the Power Producer at the Premises.
- (w) "Invoice Date" has the meaning set forth in Section 7.2.
- (x) "Losses" means all losses, liabilities, claims, demands, suits, causes of action, judgments, awards, damages, cleanup and remedial obligations, interest, fines, fees, penalties, costs and expenses (including all attorneys' fees and other costs and expenses incurred in defending any such claims or other matters or in asserting or enforcing and indemnity' obligation)
- (y) "Metering System" means all meter(s) and metering devices owned by the Power Producer and installed at the Delivery point for measuring and recorded the delivery and receipt of energy.
- (z) "Metering Date" means the first Business day of each calendar month subsequent to the month in which the Power is supplied by the Power Producer.
- (aa) "Party" or "Parties" has the meaning set forth in the preamble to this Agreement.
- (bb) "Performance Ratio" (PR) means the ratio of plant output versus installed plant capacity at any instance with respect to the radiation measured. $PR = (\text{Measured output in kW} / \text{Installed plant capacity in kWp} * 1000 \text{ W/m}^2) / \text{Measured radiation intensity in W/m}^2$
- (cc) "Person" means an individual, partnership, corporation, Limited Liability Company, business trust, Joint Stock Company, trust, unincorporated association, joint venture, firm, or other entity, or a Governmental Authority.
- (dd) "Power Producer Default" has the meaning set forth in Section 12.1 (a).
- (ee) "Power Producer Indemnified" has the meaning set forth in Section 15.2.
- (ff) "Premises" means the premises described in Schedule I to this Agreement. For the avoidance of doubt, the Premises include, the entirety of any and underlying real property located at the address described in Schedule I to this Agreement.
- (gg) "Purchaser Default" has the meaning set forth in Section 12.2 (a).
- (hh) "Purchaser Indemnified Parties" has the meaning set forth in Section 15.1
- (ii) "Scheduled Complete Date" has the meaning set forth in Section 4.1(g)
- (jj) "Selectee" means, a new company (i) proposed by the Lenders and approved by the Purchaser (ii) or proposed by the Purchaser and approved by the Lenders, for substituting the Power Producer for the residual period of the Agreement by amendment of the Agreement or by execution of a fresh power purchase agreement in accordance with the terms and conditions contained in

the said Schedule.

- (kk) "Power" means the supply of electrical energy output from the System.
- (ll) "Power Payment" has the meaning set forth in Section 7.1.
- (mm) "System" includes the integrated assembly of photovoltaic panels, mounting, assemblies, inverters, converters, metering, lighting fixtures, transformers, ballasts, disconnects, combiners, switches, wiring devices and wiring, and all other material comprising the Installation Work.
- (nn) "System Operations" means the Power Producer's operation; maintenance and repair of the System performed in accordance the requirement herein.
- (oo) "Tariff" means the price per kWh.
- (pp) "Term" has the meaning set forth in Section 3.1.

1.2 Interpretation

- (a) Unless otherwise stated, all references made, in this Agreement to "Sections", "Clauses" and "Schedules" shall refer respectively to Sections, clauses and Schedules of this Agreement. The Schedules to this Agreement form an integral part of this Agreement and shall have effect as though they were expressly set out in the body of this Agreement.
- (b) In the Agreement, unless the context otherwise requires (i) words imparting singular connotation shall include plural and vice versa: (ii) the words "include", "includes", and "including" mean include, includes and including "without limitation" and (iii) the words "hereof", "hereto", "herein" and "hereunder" and words of similar import refer to the Agreement as a whole and not to any particular provision of the Agreement.

2. Effective Date

This Agreement shall be effective on the day that falls one Business Day after the date of signing of this Agreement.

3. Terms and Termination

3.1 Term

The term of the Agreement shall commence on the Effective Date and shall continue for _____ (____) years from the Commercial Operations Date (the "Term"), unless and until terminated earlier pursuant to the provisions of the Agreement. After the Term, the ownership of the System shall be transferred to the Purchaser free of cost.

3.2 Conditions of the Agreement prior to installation

In the event that any of the following events or circumstances occur prior to the Commercial Operation Date, the Power Producer may terminate the Agreement, in which case neither Party shall have any liability to the other except for any such liabilities that may have accrued prior to such termination.

- (a) There has been a material adverse change in the rights of Purchaser to occupy the Premises or the Power Producer to install the System at the Premises.
- (b) The Power Producer has determined that there are easements, Capacity Cost Recovery (CCRs) or other liens or encumbrances that would materially impair

or prevent the installation, operation, maintenance or removal of the System. If any dispute arises before commercial operation date, the same shall be resolved under clause, 16.5 (c)

4 Construction, Installation, Testing and Commissioning of the System

4.1 Installation Work

- a) The Power Producer will cause the Project to be designed, manufactured, supplied, engineered, erected, tested and commissioned, operated & maintained and constructed substantially in accordance with RFS No ____ dated: _____ and the sanction letter issued by MNRE/PSU. The Power Producer shall provide to the Purchaser a bill of materials listing the major equipment constituting the System. Such bill of materials shall be provided within 30 days of the Commercial Operation Date.
- b) The Power Producer shall have access as reasonably permitted by the Purchaser to perform the Installation Work at the Premises in a manner that minimizes inconvenience to and interference with the use of the Premises to the extent commercially practical.
- c) It is agreed between the Parties that the Power Producer shall commission the System with a capacity of _ kWp with a battery capacity of _____ VAh.
- d) The Power Producer shall provide and lay the dedicated electrical cables for transmission of Power from the System up to the Delivery Point. Transmission or distribution of Power beyond this point will be the responsibility of the Purchaser. The Delivery Point shall be where the Main Metering System is located.
- e) Unless otherwise agreed between the Parties, the Power Producer shall carry out any modification of the Premises without the written consent of the Purchaser.
- f) The Power Producer shall maintain general cleanliness of area around the Project during construction and operation period of the Project. In case any damages is caused to the equipment / facilities owned by the Purchaser due to the Power Producer, the same shall be made good rectified by the Power Producer at their cost.
- g) The Power Producer shall, within fifteen (15) working days of the Effective Date, submit to the Purchaser shop drawings of the Project for approval. The drawings will have to be approved from the Power Purchaser within 3 working days from the submission of the drawings. If the Purchaser has any objection/"recommendation in the Shop Drawings, he shall communicate the same to Power Producer within a period of ten (10) working days of the date of submission of the Shop Drawings. Any delay will extend the Effective Date and such approval shall not be unreasonably withheld. Subject to any punch-list items which shall be agreed by the Purchaser as not being material to completion of the Project, the Power Producer agrees that it shall achieve the completion of the Project/ Commissioning of the Project within the

scheduled completion period from the Effective Date ("Scheduled Completion Date"). Purchaser shall ensure that sufficient load is available at the Delivery Point to ensure synchronization and drawl of power from System.

- h) If the Power Producer is unable to commence supply of Power to the Purchaser by the Scheduled Completion Date, other than for the reasons specified in Article 11 and 12.2 (Force Majeure or Purchaser Default), the Power Producer or its contractor shall pay to <SNA/ PSU> genuine pre-estimated liquidated damages for the delay in such commencement of supply of Power as per the relevant clause of the <SNA/PSU> RFS.
- i) The Purchaser shall ensure that all arrangements and infrastructure for receiving Power beyond the Delivery Point are ready on or prior to the Commercial Operation Date and is maintained in such state in accordance with applicable laws through the Term of the Agreement.
- j) Power Producer shall fulfill all obligations undertaken by it under this Agreement.

4.2 System Acceptance Testing

- (a) The Power Producer shall give 10 days advance notice to conduct the testing of the Project and shall conduct testing of the Project in the presence of Purchaser's designated representative.
- (b) If the results of such testing indicate that the System is capable of generating electric energy for 5 continuous hours using such instruments and meters as have been installed for such purposes, then the Power Producer shall send' a Written notice to Purchaser to that effect, and the date of successful conducting such tests and injection of Power at Delivery Point shall be the "**Commercial Operation Date**"
- (c) Remote monitoring of the system shall be made live and access provided to purchaser, SNA/PSU/MNRE.

5 System Operations

5.1 The Power Producer as Owner and Operator

The System will be legally and beneficially owned by the Power Producer and will be operated and maintained and, as necessary, repaired by the Power Producer at its sole cost and expense. Replacement of batteries and spare parts shall be responsibility of Power Producer for the complete period of Agreement. If any repair or maintenance costs incurred by the Power Producer as a result of Purchaser's breach of its obligations, shall be reimbursed in full by Purchaser.

Power Producer shall not be responsible for any work done by others on any part of the System/Project authorized by the Purchaser and not authorized in advance by the Power Producer in writing. Power Producer shall not be responsible for any loss, damage, cost or expense arising out of or resulting from improper operation or 'maintenance of the System by Purchaser or anyone instructed to do such work by Purchaser. In the event of a problem with

the System, as a result of the Purchaser actions for which Power Producer is not responsible as provided in this Agreement, Purchaser may choose and pay Power Producer for diagnosing and correcting the problem at Power Producer or Power Producer's contractors standard rates.

5.2 Metering

- (a) The Power producer shall install the Metering System with due certification for the measurement of electrical energy produced by the System.
- (b) The meter shall record the daily power supplied and will be read by Power Producer's personnel on the Metering date. The authorized representative of the Purchaser shall be present at the time of meter reading. Both the Parties shall sign a joint meter reading report. However, in case the joint meter reading report is not signed in the first three business days of any month due to non- availability of the Purchaser's authorized representative, the report signed by the Power Producer shall be considered as Joint Meter Reading Report. The Parties agree that such Joint meter reading Report shall be final and binding on the Parties. The Metering System at the Delivery Point and any additional meters required by Applicable Law shall be tested, maintained and owned by the Power Producer.
- (c) The Power Producer shall connect the system power output to the supply system of the Purchaser.

5.3 System Disruptions

- (a) Availability of premises: Purchaser will provide full access of the site to Power Producer for installation, operation and maintenance of solar power plant during the period of Agreement. Power Purchaser will also provide restricted access of the Premises to Power Producer for operation and maintenance of solar power plant.
- (b) Purchaser will not provide/construct any structure within its Premises or around its premises which shades the solar panels effecting the generation of the energy during the Agreement period.
- (c) Repair and other System Disruptions in the event that (a) the Purchaser repairs the Premises for any reason not directly related to damage, if any, caused by the System, and such repair required the partial or complete temporary disassembly or movement of the System, or (b) any act or omission of Purchaser or Purchaser's employees, Affiliates, agents or subcontractors (collectively, a "**Purchaser Act**") result in a disruption or outage in System production, and such events attributable to Purchaser (except Force majeure, then, in either case) Purchaser shall (i) pay the Power Producer for all work required by the Power Producer to disassemble or move the System and re-assemble the system after completion of the repair work and (ii) continue to make all payments for the Power during such period of System disruption (the "**Disruption Period**"). Power producer shall inform about the 'disruption or

outage in System production, for reasons attributable to purchaser in 'writing with date and time of such occurrences, and Purchaser's liability shall start from the date of intimation for above of disruption or outage in system production, on account of Purchaser.

6 Delivery of Power

6.1 Producer Requirement:

Power producer is liable to supply daily minimum guaranteed power (DMGP) to the Purchaser. In case the Power producer fails to supply DMGP or power required by the Purchaser, whichever is less, the Power producer will be liable to pay penalty tariff for the units supplied less than the DMGP at a rate of Rs. _____/ kWh. In the event of supply of power less than DMGP or required by purchaser, whichever is less, the Purchaser will register its claim with Power producer for penalty tariff.

6.2 Purchaser Requirement:

Purchaser agrees to off-take one hundred percent (100%) of the DMGP made available by the Power Producer to Purchaser at the Delivery Point every day of the Term. In the event that the Purchaser is unable to off take 100% of the DMGP, the Power Producer will not be held responsible for supplying power less than DMGP and will get payment as per DMGP.

6.3 Suspension of Delivery

Power Producer shall be entitled to suspend delivery of electricity from the System to the Delivery Point for the purpose of maintaining and repairing the System upon giving one week's advance written notice to the Purchaser except in the case 'of emergency repairs. Such suspension of Service shall not constitute a breach of this Agreement provided that the Power Producer shall use commercially reasonable efforts to minimize any 'interruption in service to the Purchaser. However, any preventive maintenance shall be done only during the period when plant is not generating or power is not required by purchaser.

7 Tariff and Payments

7.1 Purchaser shall pay to the Power Producer a monthly payment (the "**Power Payment**") for the Power supplied by the plant as per the Metering clause 5.2 (b) above during each calendar month of the Term equal to the DMGP multiplied by the days in the month multiplied by the Tariff of Rs. ___per kWh(discovered through bidding process). Any applicable penalty as per clause 6.1 shall be deducted from the Power Payment.

7.2 Invoice

The Power Producer shall invoice Purchaser on the first day of each month (each, an "**Invoice Date**") commencing on the first Invoice Date to occur after the Commercial Operation Date, for the Power Payment in respect of the immediately preceding month. The last invoice shall -include DMGP only through the Expiration Date of this Agreement.

7.3 The invoice to the purchaser shall include.

- (a) The Power calculations for the relevant billing period.
- (b) Supporting data, documents and calculations in accordance with this Agreement.

7.4 Time of payment

Purchaser shall pay all amounts due hereunder within 30 days after the date of the receipt of the invoice via email or by hand or post ("**Due Date**").

7.5 Method of Payment

Purchaser shall make all payments under the Agreement by electronic funds transfer to the account designated by the Power Producer from time to time. All payments made hereunder shall be non-refundable, subject to the applicable tax deduction at source, and be made free and clear of any other tax, levy, assessment; duties or other charges and not subject to reduction, set-off, or adjustment of any kind. Further, if any taxes and duties are leviable currently or in future, such taxes and duties shall be paid by the Purchaser over and above the power tariff mentioned in this agreement. If the Purchaser deducts any tax at source, the Purchaser will issue a tax credit certificates as per law.

7.6 Late Payment Surcharge

In case payment of any invoice is delayed by the Purchaser beyond its due date, a late payment surcharge shall be payable by Purchaser to the Power Producer at the rate of 1.25% per month ("**Late Payment Surcharge**") calculated on the amount of outstanding payment, calculated on a day to day basis for each day of the delay, compounded on monthly rates. Late Payment Surcharge shall be claimed by the Power Producer, through its subsequent invoice.

7.7 Disputed Payments

In the event that the Purchaser disputes an invoice, it shall give notice of such a dispute within 15 days of receiving the invoice setting out details of the disputed amount. The Purchaser shall pay by the due date 100% of any undisputed amount and in case the invoice is disputed, the Purchaser shall pay an amount based on average consumption of last three consecutive undisputed invoices. Amount so recovered shall be subject to final adjustment on resolution of the dispute. Thereafter, the Parties shall discuss and try to resolve the disputed amount within a week of receipt of such notice of dispute. If the Parties resolve the dispute, an appropriate adjustment shall be made in the next invoice. If the dispute has not been resolved by the date of the next invoice the dispute shall be referred to a committee of one member from each of Purchaser and Power Producer, If the dispute is still-not resolved by the next following invoice it shall be referred to Arbitration as provided in the present Agreement.

8 General Covenants

8.1 Power Producer's Covenants

The Power Producer covenants and agrees to the following:

- (a) **Notice of Damage or Emergency:** The Power Producer shall (a) promptly notify Purchaser if it becomes aware of any damage to or loss of the use of the

System or that could reasonably be expected to adversely affect the System, (b) immediately notify Purchaser once it becomes aware of any event or circumstance that poses an imminent risk to human health, the environment, the System or the Premises.

- (b) **System Condition:** The Power Producer shall take all actions reasonably necessary to ensure that the System is capable of providing DMGP at a commercially reasonable continuous rate. Subject to there being no Purchaser Default, the Power Producer shall provide 24 x 7 onsite / offsite monitoring and maintenance of the System throughout the period of this agreement at no additional cost.
- (c) The System shall meet Performance Ratio (PR) at the time of commissioning and related Capacity Utilization Factor (CUF) as per the daily normalized irradiance levels of the location during the O&M period. PR shall be minimum of 75% at the time of inspection for initial Project acceptance.
- (d) **Governmental Approvals :** While providing the Installation work, Power and System Operations, the Power Producer shall obtain and maintain and secure all Governmental Approval required to be obtained and maintained and secured by the Power Producer and to enable the Power Producer to perform such obligations
- (e) **Health and Safety:** The Power Producer shall take all necessary and reasonable safety precautions with respect to providing the installation Work, Power, and System Operations that shall comply with all Applicable Law pertaining-to the health and safety of persons and real and personal property.

8.2 Power Producer's Representatives

During the subsistence of this Agreement, the Power Producer undertakes to respond to all questions, concerns and complaints of the Purchaser regarding the System in a prompt and efficient manner. The Power Producer designates the following individual as its representative pertaining to performance of this Agreement till the Commercial Operation Date:

Name: _____
Telephone: _____

Email: _____

The Power Producer designates the following individuals as its representative and primary point of contact pertaining to performance of this Agreement following the Commercial Operation Date till termination:

Name: _____

Telephone: _____

Email: _____

8.3 Purchaser's Covenants

Purchaser covenants and agrees to the following:

- (a) **Notice of Damage or Emergency:** Purchaser shall (a) promptly notify the Power Producer if it becomes aware of any damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System; (b) immediately notify the- Power Producer once it becomes aware of any event or circumstance that poses an imminent risk to human health, the environment, the System or the Premises.
- (b) **Liens:** Purchaser shall not directly or indirectly cause, create, incur, assume or suffer to exist any Liens on or with respect to the System or any interest therein. If Purchaser breaches its obligations under this Clause, it shall immediately notify the Power Producer in writing, and shall promptly cause such Lien to be discharged and released of record without any cost to the Power Producer, and shall indemnify the Power Producer against all costs and expenses (including reasonable attorneys fees and court costs) incurred in discharging and releasing such Lien.
- (c) **Consents and Approvals:** Purchaser shall ensure that any authorizations required of Purchaser under this Agreement, including those required for installation of System at the Premises and to drawl consume Solar Power are provided in a timely manner. The Purchaser shall cooperate with the Power Producer to obtain such approvals, permits, rebates or other 'financial incentives.
- (d) **Access to Premises Grant of License:** Purchaser hereby grants to the Power Producer a license co-terminus with the Term, containing all the rights necessary for the Power Producer to use portions of the Premises for the installation, operation and maintenance of the System pursuant to the terms of this Agreement, including ingress and egress rights to the Premises for the Power Producer and its employees and authorized representatives and access to electrical panels and conduits to interconnect or disconnect the System with the Premises electrical wiring with the consent and approval of the Purchaser's authorized representative identified by the Purchaser. Photo IDs will be provided by the Power Producer. Power Purchaser will assist in availing permissions to the site.
- (e) **Security:** The building which has enhanced security of Solar Power System Purchaser will keep the premises locked. Inspite of these measures, if any damages to the System takes place due to theft or vandalism then the same shall be claimed or reimbursed through insurances by Power producer. In case of theft and vandalism acts, the Purchaser will assist the Power Producer in procedures of filing FIRs, insurance claims and any other related activities. Whenever, the damages to the System occurs (except due to negligence of Power Producer) then the same shall be jointly assessed by both the Parties and a severity level will be decided, which will further decide the duration offered to the Power Producer to correct the damage, and the Power Producer shall he paid the amount on the basis of 'DMGP' for such a period. Power Producer shall be entitled to any insurance proceeds received for damages in this clause. Purchaser will not conduct activities on, in or about the Premises that have a reasonable

likelihood of causing damage, impairment or otherwise adversely affecting the System. If System is damaged due to any such activity or through any other agency contracted by the Purchaser directly or indirectly, such damage will be borne by the Purchaser.

- (f) Regardless of whether Purchaser is owner of the Premises or leases the Premises from a landlord, Purchaser hereby covenants that (a) the Power Producer shall have access to the Premises and System during the Term of this Agreement, and (b) neither Purchaser nor Purchaser's landlord will interfere or handle any of the Power Producer's equipment or the System without written authorization from the Power Producer.
- (g) **Temporary storage space during installation :** Purchaser shall provide sufficient space at the Premises for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary Construction, trailers and facilities reasonably necessary during the Installation Work, System Operations and access for rigging and material handling.
- (h) **Sunlight Easements:** Purchaser will take all reasonable actions as necessary to prevent other building, structures or flora from overshadowing or otherwise blocking access of 'sunlight to the System, including but not limited to-such actions as may be reasonably necessary to obtain a solar access easement for such purpose.
- (i) **Evacuation** — Purchaser shall off take 100% of the DMGP from the Delivery Point, and pay all invoices raised by the Power Producer under this Agreement by the 'Due Date and pay interest on delayed payments, if any, as per this Agreement.
- (j) **Water** - Power Purchaser at zero cost shall arrange Raw Water at a given point as per the requirements of the Power Producer, for periodic cleaning of the solar panels (_____ liters - twice a month).
- (k) **Relocation** - If one or more of the Solar Power Plant panels needs to be temporarily moved or its generation suspended, for any other reason requested by the Power Purchaser, the Power Purchaser will be responsible for pre-agreed costs on actuals only, arising from moving, disassembling and re-installing/ commissioning the Solar Power Plant, as agreed between the Parties. The Power Producer will be responsible for providing detailed documentary proof of the actual pre-agreed costs borne for such relocation/disassembling. Within 30 days of these satisfactory documents being provided by the Power Producer, the Purchaser shall reimburse these pre-agreed expenses in full, and delayed payment beyond the date mentioned above will attract Late Payment charges as described in Clause 7.6. During any interruption in generation during such relocation, the Purchaser will continue to be billed as per DMGP, during the period of interruption, for the affected Solar Power Plant(s).

9 Representations & Warranties

- 9.1 Representations and Warranties Relating to Agreement Validity In addition to any other representations and warranties contained in the Agreement, each Party represent and warrants to the other that:
 - (a) It is duly organized and validly existing and in good standing in the jurisdiction

of its incorporation;

- (b) It has the full right and authority to enter into, execute, deliver, and perform its obligations under the Agreement.
- (c) It has taken all requisite corporate or other action to approve the execution, delivery, and performance of the Agreement;
- (d) The Agreement constitutes its legal, valid and binding obligation enforceable against such Party in accordance with its terms;
- (e) There is not litigation, action, proceeding or investigation pending or, to the best of its knowledge, threatened before any court or other Governmental Authority by, against, affecting or involving any of it's business or assets that could reasonably be expected to adversely affect its ability to carry out the transactions contemplated herein; and
- (f) Its execution and performance of the Agreement and the transactions contemplated hereby do not constitute a breach of any term or provision of, or a default under (i) any contract or agreement to which it or any of its Affiliates is a party or by which it or any of its Affiliates or its or their property is bound, (ii) its organizational documents, or (iii) any Applicable Laws.

10 Taxes and Governmental Fees

10.1 Purchaser obligations

Purchaser shall pay for any taxes, fees or charges imposed or authorized by any Governmental Authority in future (as on date no such taxes/fees/charges are being levied) on sale of the Solar Power to Purchaser pursuant to clause 7. The Power Producer shall notify Purchaser in writing with a detailed statement of such amounts, which shall be invoiced by the Power Producer in the monthly bills and payable by Purchaser. Purchaser shall timely report, make filings for, and pay any and all sales, use, income or other taxes, and any other amounts assessed against it due to its purchase of the Solar Power. This Section 10.1 excludes taxes specified in Section 10.2.

10.2 Power Producer Obligations

The Power Producer shall be responsible for all income taxes and any and all franchise fees or similar fees assessed against it due to its ownership of the System. The Power Producer shall not be obligated for any taxes payable by or assessed against Purchaser based on or related to Purchasers overall income or revenues.

11 Force Majeure

11.1 Definition

"**Force Majeure Event**" means any act or event that prevents the affected Party from

performing its obligation in accordance with the Agreement, if such act or event is beyond the reasonable control of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing conditions, "Force Majeure Event" shall include without limitation the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning, volcanic eruptions and earthquakes; (ii) explosions or fires arising from lighting or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion. A Force Majeure Event shall not be based on the economic hardship of either Party. In case of any damage because of force majeure event, the System shall be repaired / commissioned at its own cost by the Power Producer.

11.2 Excused Performance: Except as otherwise specifically provided in the Agreement, neither Party shall be considered in breach of the Agreement or liable for any delay or failure to comply with the Agreement, if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event; provided that the Party claiming relief under this Section 11 shall immediately (i) notify the other Party in writing of the existence of the Force Majeure Event, (ii) exercise all reasonable efforts necessary to minimize delay caused by such Force Majeure Event, (iii) notify the other Party in writing of the cessation or termination of said Force Majeure Event and (iv) provided, however, that Purchaser shall not be excused from making any payments and paying any unpaid amounts due in respect of Solar Power delivered to Purchaser prior to the Force Majeure Event performance interruption.

11.3 Termination as a Consequence of Force Majeure Event

If a Force Majeure Event shall have occurred that has affected the Power Producer's performance of its obligations hereunder and that has continued for a continuous period of one hundred eighty (180) days, then Purchaser shall be entitled to terminate the Agreement and if such Force Majeure Event continues for further ninety (90) days period, the Agreement shall automatically terminate. Upon such termination for a Force Majeure Event, neither Party shall have any liability to the other (other than any such liabilities that have accrued prior to such termination).

12 Default

12.1 Power Producer Defaults and Power Purchaser Remedies

(a) Power Producer Defaults:

The following events shall be defaults with respect to the Power Producer (each, a "**Power Producer Default**").

- (i) An Insolvency Event shall have occurred with respect to the Power Producer;
- (ii) Failure to achieve Commissioning of the System within the period as per RFS document; and
- (iii) The Power Producer breaches any material term of the Agreement and

(A) if such breach can be cured within sixty (60) days after Purchaser's written notice of such breach and the Power Producer fails to cure the same; or (B) the Power Producer fails to commence and pursue a cure within such sixty (60) days period if a longer cure period is needed.

(b) Purchaser's Remedies:

- (i) If a Power Producer Default described in Section 12.1 (a) has occurred and is continuing, in addition to other remedies expressly provided herein, and subject to Section 13, Purchaser shall have a right to deliver a notice of its intention to terminate this Agreement ("Purchaser Preliminary Default Notice"), which shall specify in reasonable detail, the circumstances giving rise to the issue of such notice.
- (ii) Upon the occurrence and continuation of Power Producer Default and the failure by the Power Producer to cure such default within the applicable cure period specified in this Article; the Purchaser shall be at liberty to avail the services of any other firm / successful bidder.
- (iii) Following the issue of Purchaser Preliminary Default Notice, it shall be the responsibility of the Parties to discuss as to what steps shall be taken with a view to mitigate the consequences of the relevant Power Producer's Default having regard to all the circumstances: If the Power Producer Default is not cured within a period of sixty (60) days of the issue of Purchaser Preliminary Default Notice or any other such period mutually agreed upon by the Parties, the Purchaser shall have the right to terminate this Agreement by issuing a Purchaser Termination Notice.
- (iv) Upon the delivery of the Purchaser Termination Notice, this Agreement shall stand terminated. The Power Producer shall have the liability to make payment within sixty (60) days from the date of Purchaser Termination Notice towards compensation to Purchaser equivalent to Tariff multiplied by the DMGP for a period of three years or remaining period of Agreement, whichever is less, following the termination. The ownership of the System will be transferred to the Purchaser.
- (v) The Power Purchaser may exercise any other remedy it may have at law or equity or under the Agreement.

12.2 Power Purchaser Defaults and Power Producer's Remedies

(a) Purchaser Default :

The following events shall be defaults with respect to Purchaser (each, a "**Purchaser Default**")

- (i) An Insolvency Event shall have occurred with respect to Purchaser;

- (ii) Purchaser breaches any material term of the Agreement if (A) such breach can be cured within sixty (60) days after the Power Producer's notice of such breach and Purchaser fails to so Cure, or (B) Purchaser fails to commence and pursue said cure within such sixty (60) day period if a longer cure period is needed; and
 - (iii) Purchaser fails to pay the Power Producer any undisputed amount or, if the amount is disputed, an amount based on average consumption of last three consecutive undisputed invoices to the Power Producer under Section 7.7 of this Agreement within sixty (60) days from the receipt of notice from the Power Producer of such past due amount
- (b) **Power Producer's Remedies:** If a Purchaser Default described in Sections 12.2 (a) has occurred and is continuing, in addition to other remedies expressly provided herein, and subject to Section 13, the Power Producer shall be entitled to terminate this Agreement by serving a fifteen (15) days' notice and upon such termination, (A) the Power Producer shall be entitled to receive from Purchaser the difference in Producer's investment with 12% interest per annum thereon from COD to date of default and NPV of amount received in form of monthly bill payments and (B) the Power Producer may exercise any other remedy it may have at law or equity or under the Agreement.

13 Limitations of Liability

- 13.1 Except as expressly provided herein, neither Party shall be liable to the other Party or its Indemnified Persons for any special, punitive, exemplary, indirect, or consequential damages, losses or damages for lost revenue or lost profits, whether foreseeable or not, arising out of, or in connection with the Agreement.
- 13.2 Subject to the provisions of the Agreement, the Power Producer shall be solely responsible for the manner in which its obligations under this Agreement are to be performed. All employees and representatives of the Power Producer, or contractors engaged by the Power producer in connection with Power Producer and shall not be deemed to be employees, representatives, contractors of the Purchaser. Nothing contained in the Agreement or in any agreement or contract executed by the Power Producer shall be construed to create any contractual relationship between any such employees, representatives or contractors and the Purchaser.
- 13.3 Notwithstanding any liability. or obligation that may arise under this Agreement, any loss, damage, liability, payment, obligation or expense which is insured or not or for which the Purchaser can claim compensation under any insurance policy, shall not be charged to or payable by the Purchaser.

14 Assignment & Novation

- 14.1 **Assignment:** Notwithstanding anything contained herein, the Power Producer has the right to assign all or any of its rights under this Agreement (including rights over any assets hereunder), to any third party including, though not restricted to any lender,

equipment lessor or other party (“Assignment”), with the consent of the Power Purchaser. The Power Purchaser shall not unreasonably withhold such consent. In the event of such assignment, the Purchaser will be able to hold the Power Producer as well as the party to whom the benefits under this contract are assigned, to be jointly and severally responsible for performing the obligations under this contract. Further, in the event of assignment, the Purchaser agrees to make the payments due to the Power Producer under this agreement, directly to the assignee, upon receipt of such notice by the Power Producer. If the Power Producer were to sell the Solar Power Plant, then the new buyer(s) would need to abide by this Agreement. Further, the Power Producer reserves the right to assign whole or part of the assets to lenders/ leasing companies. Purchaser may assign its rights under this Agreement, without the prior consent of Power Producer, to an Affiliate or any successor in interest to Purchaser, whether by way of merger, reorganization or sale of assets (including any sale of a line of business). This Agreement shall insure to the benefit of and be binding upon Purchaser and its successors or assigns. However, any such actions as intended by the Power Producer under Article 14.1 and Article 14.2 shall be binding on Power Purchaser ,if there are zero material inconsistencies present in the contract provisions during the time of assignment/novation, else, it shall be construed as default in contract and appropriate actions shall be taken as deemed fit.

- 14.2 **Novation:** The Parties agree and acknowledge that the Power Producer may intend to novate the Agreement to a party, and has the right to transfer any or all of its rights and obligations under this Agreement to a party or any other third party (“New Party”), with the consent of the Power Purchaser. The Power Purchaser shall not unreasonably withhold such consent. Upon Novation, the New Party shall automatically and without any further action be entitled to all the same rights and assume the same obligations, under this Agreement, as if it were originally a party to this Agreement. Further, the Purchaser hereby agrees and undertakes that, promptly upon receiving a request from the Power Producer, the Purchaser shall execute such further writings, deeds and/or agreements and take all such further actions as may be necessary for effecting or implementing the transfer of any or all of the Power Producer’s rights and/or obligations under this Agreement to the New Party. If the parties agree to do Novation then separate Novation agreement shall be executed.

14.3 Notices

Unless otherwise provided in the Agreement, all notices and communications concerning the Agreement shall be in writing and addressed to the Parties at the addresses set forth below:

Power Producer's address and contact details:

Purchasers address and contact details:

14.4 Notice

Unless otherwise provided herein, any notice provided for in the Agreement shall be hand delivered, sent by registered post, or by courier delivery, or transmitted by facsimile and shall be deemed delivered to the addressee or its office when received at the address for notice specified above when hand delivered or sent by courier delivery or sent by courier delivery, upon posting if sent by registered post and upon confirmation of sending when sent by facsimile on the next Business Day.

15 Indemnity

15.1 Power Producer's Indemnity

Subject to Section 13, the Power Producer agrees that it shall indemnify and hold harmless Purchaser and its members, officers, employees, students, casual laborers, persons permitted to run any business or service, such as canteens, stores, photocopy units, banks, post office, courier service, hospital and to any lawful visitors (collectively, the "Purchaser Indemnified Parties") from and against any and all Losses incurred by the Purchaser Indemnified Parties to the extent arising from or out of the following any claim for or arising out of any injury to Or death of any Person or Loss or damage to Property of any Person to the extent arising out of the Power Producer's negligence or willful misconduct. The Power Producer shall not, however, be required to reimburse or indemnify any Purchaser Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of any Purchaser indemnified Party.

15.2 Purchaser's Indemnity

Subject to Section 13, Purchaser agrees that it shall indemnify, defend and hold harmless the Power Producer, its permitted successors and assigns and their respective directors, officers, employees, contractors, sub-contractors, and agents (collectively, the "Power Producer indemnified Parties") from and against any and all Losses incurred by the Power Producer Indemnified Parties to the extent arising from or out of any claim for or arising out of any injury to or death or any Person or loss or damage to property of any Person to the extent arising out of Purchaser's negligence or willful misconduct. Purchaser shall not, however, be required to reimburse or indemnify any Power Producer Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of any Power Producer Indemnified Party.

16. Miscellaneous

16.1 Amendments

This Agreement may only be amended, modified or, supplemented by an instrument in writing executed by duly authorized representatives of the Power Producer and Purchaser.

16.2 Cumulative Remedies

Except as set forth to the contrary herein, any right or remedy of the Power Producer or Purchaser shall be cumulative and without prejudice to any other right or remedy.

16.3 No Waiver

The failure of the Power Producer or Purchaser to enforce any of the provisions of the Agreement, or the waiver thereof, shall not be construed as a general waiver or relinquishment on its part of any such provision in any other instance or of any other provision in any instance.

16.4 Survival

The obligations under Section 8:1 (d) (Power Producer Covenant), Sections 8.3(d), (e), (f) and (g) (Purchaser Covenants), Section 10 (Taxes and Governmental Fees), Section 13 (Limitation of Liability) Section 12.2 (Notices), or pursuant to other provisions of this Agreement that, by their nature and context, are intended to survive. These provisions shall survive the expiration or termination of this Agreement for any reason.

16.5 Governing Law & Jurisdiction

- (a) This Agreement shall be governed by and construed in accordance with the laws of India. The Parties agree that the courts in _____ shall have jurisdiction over any action or proceeding arising under the Agreement.
- (b) In the event of any Dispute, difference of opinion or dispute or claim arising out of or relating to this Agreement or breach, termination or the invalidity thereof, shall firstly be attempted to be resolved by conciliation. Any Dispute that cannot be settled through conciliation procedure shall be referred to arbitration in accordance with the procedure given below. The Parties agree to comply with the awards resulting from arbitration and waive their rights to any form of appeal insofar as such waiver can validly be made. Cost of conciliation shall be equally shared by both the parties.
- (c) **Arbitration Procedure:**

Settlement of Dispute :

If any dispute of any kind whatsoever arises between Purchaser and Power Producer in connection with or arising out of the contract including without prejudice to the generality of the foregoing, any question regarding the existence, validity or termination, the parties shall seek to resolve any such dispute or difference by mutual consent.

If the parties fail to resolve, such a dispute or difference by mutual consent, within 45 days of its arising, then the dispute shall be referred by either party by giving notice to the other party in writing of its intention to refer to arbitration as hereafter provided

regarding matter under dispute. No arbitration proceedings will commence unless such notice is given. Any dispute in respect of which a notice of intention to commence arbitration has been given in accordance with Sub Clause 16.5 (b), shall be finally settled by arbitration.

In case the Contractor (Power Producer) is a Public Sector Enterprise or a Government Department:

In case the Contractor is a Public Sector Enterprise or a Government Department, the dispute shall be referred for resolution in Permanent Machinery for Arbitration (PMA) of the Department of Public Enterprise, Government of India. Such dispute or difference shall be referred by either party for Arbitration to the sole Arbitrator in the Department of Public Enterprises to be nominated by the Secretary to the Government of India in- charge of the Department of Public Enterprises. The award of the Arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make a further reference for setting aside or revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law & Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary / Additional Secretary, when so authorized by the Law Secretary, whose decision shall bind the Parties finally and conclusive. The Parties to the dispute will share equally the cost of arbitration as intimated by the Arbitrator.

In All Other Cases

In all other cases, any dispute submitted by a party to arbitration shall be heard by an arbitration panel composed of three arbitrators, in accordance with the provisions set forth below.

The Purchaser and the Power Producer shall each appoint one arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the two arbitrators do not succeed in appointing a third arbitrator within Thirty (30) days after the later of the two arbitrators has been appointed, the third arbitrator shall, at the request of either party, be appointed by the Appointing Authority for third arbitrator which shall be the President, Institution of Engineers.

If one party fails to appoint its arbitrator within thirty (30) days after the other party has named its arbitrator, the party which has named an arbitrator may request the Appointing Authority to appoint the second arbitrator. If for any reason an arbitrator is unable to perform its function, the mandate of the Arbitrator shall terminate in accordance with the provisions of applicable laws as mentioned in Clause (Governing Law) and a substitute shall be appointed in the same manner as the original arbitrator.

Arbitration proceedings shall be conducted with The Arbitration and Conciliation Act, 1996. The venue or arbitration shall be New Delhi.

The decision of a majority of the arbitrators (or of the third arbitrator chairing the arbitration panel, if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction as decree of the court. The parties thereby waive any objections to or claims of immunity from such enforcement.

The arbitrator(s) shall give reasoned award.

Notwithstanding any reference to the arbitration herein, the parties shall continue to perform their respective obligations under the agreement unless they otherwise agree. Cost of arbitration shall be equally shared between the Power Producer and Purchaser.

16.6 Severability

If any term, covenant or condition in the Agreement shall, to any extent, be invalid or unenforceable in any respect under Applicable Law, the remainder of the Agreement shall not be affected thereby, and each term, covenant or condition of the Agreement shall be valid and enforceable to the fullest extent permitted by Applicable Law and if appropriate, such invalid or unenforceable provision shall be modified or replaced to give effect to the underlying intent of the Parties and to the intended economic benefits of the Parties, Successors and Assigns.

This Agreement and the rights and obligations under the Agreement shall be binding upon and shall inure to the benefit of the Power Producer and Purchaser and their respective successors and permitted assigns.

16.7 Counterparts

This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument.

16.8 Independent Service Provider

This Agreement is on a principal to principal basis between the parties hereto. Nothing contained in this Agreement shall be construed or deemed to create any association, partnership or joint venture or employer employee relationship or principal-agent relationship in any manner whatsoever between the Parties.

16.9 Non-Exclusive Agreement

This Agreement is on non-exclusive basis. The Purchaser is free to engage any other service provider's or may entrust services similar to those provided by the Power Producer under this Agreement to any other person/s, provided the Power Producer's rights under this Agreement are not affected in any manner

16.10 Entire Agreement

This Agreement constitutes the entire agreement between the Parties hereto with respect of the subject matter of this Agreement and supersedes all prior agreements and undertakings; written or oral, with respect to the subject matter hereof except as otherwise expressly provided herein. The Schedules annexed to this Agreement also form a part of this Agreement.

16.11 Insurance

The Power Producer shall maintain at its own costs, throughout the tenure of this Agreement and any extensions thereof all mandatory insurance coverage for adequate amount including but not restricted to comprehensive general liability insurance including theft and vandalism, covering the System and accidental losses, bodily harm, injury, death of all individuals employed/ assigned by the Power Producer to perform the services required under this Agreement.

16.12 Annual accounts reconciliation shall be conducted annually between the Power Producer and Purchaser.

16.13 Entire Agreement

This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter of this Agreement and supersedes all prior agreements and undertakings, written or oral, with respect to the subject matter hereof except as otherwise expressly provided herein. The Schedules annexed to this Agreement also form a part of this Agreement.

IN WITNESS WHEREOF the Parties have caused the Agreement to be duly executed through their duly authorized representatives as of the date set forth above.

FOR & ON BEHALF OF		FOR & ON BEHALF OF	
THE PRESIDENT OF INDIA		POWER PRODUCER	
Signature:		Signature:	
Name:		Name:	
Designation:		Designation:	

WITNESSES		WITNESSES	
1)	Signature:	1)	Signature:
	Name:		Name:
	Designation:		Designation:

2)	Signature:	2)	Signature
	Name:		Name

	Designation:			Designation	
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SCHEDULE-I

Description of the Premises:

Premises Overview	
Segment	
Type of Premises/ Roof	
Hours of Operation	
Security	
	Capacity and Area Requirement
Capacity	_____ kWp
Module Area	_____ Sqr mtr (PV System)
Area required in premises	_____ Sqr mtr
Battery capacity	_____ VAh
Requirement for placement of batteries	_____ Sqr mtr