

**STANDARD
POWER PURCHASE AGREEMENT FOR
PROCUREMENT OF 250 MW SOLAR POWER
ON LONG TERM BASIS**

Between

..... **[Insert Name of Solar Power Developer]**

And

Maharashtra State Power Generation Company Limited

..... **[Insert month and year]**

INDEX

SECTION	CONTENTS	PAGE NO.
1.	ARTICLE 1: DEFINITIONS AND INTERPRETATION	6
2	ARTICLE 2 : TERM OF AGREEMENT	14
3	ARTICLE 3 : NOT USED	15
4	ARTICLE 4 : CONSTRUCTION & DEVELOPMENT OF THE PROJECT	16
5	ARTICLE 5: SYNCHRONISATION, COMMISSIONING & COMMERCIAL OPERATION... ..	20
6	ARTICLE 6: DISPATCH.....	21
7	ARTICLE 7: METERING	22
8	ARTICLE 8: INSURANCES.....	23
9	ARTICLE 9: APPLICABLE TARIFF	24
10	ARTICLE 10: BILLING AND PAYMENT.....	25
11	ARTICLE 11 : FORCE MAJEURE.....	31
12	ARTICLE 12: CHANGE IN LAW	34
13	ARTICLE 13: EVENTS OF DEFAULT AND TERMINATION	35
14	ARTICLE 14: LIABILITY AND INDEMNIFICATION.....	39
15	ARTICLE 15: ASSIGNMENTS AND CHARGES	42
16	ARTICLE 16: GOVERNING LAW AND DISPUTE RESOLUTION.....	43
17	ARTICLE 17: MISCELLANEOUS PROVISIONS.....	45
	SCHEDULE 1: FORMAT OF THE PERFORMANCE BANK GUARANTEE.....	52
	SCHEDULE 2 : LIST OF BANKS.....	55
	SCHEDULE 3: POWER SALE AGREEMENT.....	57

This Power Purchase Agreement is made on the[Insert date] day of[Insert month] of [Insert year] at [Insert place]

Between

..... [Insert name of the Solar Power Developer], a Company incorporated under the Companies Act 1956 or Companies Act 2013, having its registered office at [Insert address of the registered office of Solar Power Developer] (hereinafter referred to as “**Solar Power Developer or SPD**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and permitted assigns) as a Party of the **First Part**;

And

Maharashtra State Power Generation Company Limited, a company incorporated under the Companies Act 1956, having its registered office at 2nd Floor, Prakashgad, A.K. Marg, Bandra (East), Mumbai-400051 (hereinafter referred to as “**Buyer**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and assignees) as a Party of the **Second Part**;

The SPD and MAHAGENCO are individually referred to as ‘Party’ and collectively referred to as ‘Parties’.

Whereas:

- A As part of the Government of India’s target to achieve a cumulative installed capacity of 100 GW by the year 2022, MAHAGENCO has been instrumental in developing grid connected solar power capacity in Maharashtra and plays the role of Intermediary Procurer in line with the provisions of the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar Power Projects, issued by Ministry of Power, vide resolution dated 03.08.2017 and subsequent amendments.
- B [**Insert Name of the SPD**] has been declared as a successful bidder against Request for Selection (RfS) issued by MAHAGENCO vide RfS No.dated.....issued by MAHAGENCO for selection of SPD for development of cumulative capacity of [Insert total tendered capacity] and has been issued Letter of Intent (LOI) (LOI No.....dated.....) for development of Grid-connected Solar Power Project, generation and sale of Solar power under the above RfS.

BUYER-SPD PPA

- C. The SPD, is established in [insert name of the Place] with an objective, inter-alia, to develop and manage Solar power plants in India.
- D. The SPD is engaged in the business of generation of power and is desirous of setting up a 250 MW Solar power project located at Dondaicha Solar Park in village Methi & Vikharan Tal.- Sindkheda Dist. Dhule in the state of Maharashtra. (Hereinafter referred to as the “**Project**”).
- E. The SPD has agreed to sign this Power Purchase Agreement with Buyer to sell 250 MW of Solar Power to Buyer as per the terms and conditions of this Agreement.
- F MAHAGENCO has agreed to purchase such Solar Power from SPD as an Intermediary Procurer and sell it to Buying Utility on back-to-back basis as per the provisions of above stated scheme, accordingly MAHAGENCO has agreed to sign/has signed a Power Sale Agreement with the Buying Utility to sell such power as per the provisions of the above said scheme.
- SPD acknowledges and accepts that MAHAGENCO is only an Intermediary Company and is facilitating the purchase of sale of electricity generated from the Solar PV Projects and therefore, cannot assume independently, any obligation, financial or otherwise, either to the SPD or to Discom(s), except on a back to back basis, namely, that whatever obligation is enforced by the Discom(s) under the PSA against MAHAGENCO, SPD(s) shall be bound to fulfil the obligation on a back to back basis towards MAHAGENCO and similarly, whatever rights that SPD(s) may claim under this Agreement against MAHAGENCO, shall be subject to due enforcement of the corresponding rights on a back to back basis by MAHAGENCO against Discom(s), without an independent obligation on the part of MAHAGENCO;
- G. Pursuant to the aforesaid objective, the Parties are desirous of entering into a Power Purchase Agreement (“**PPA**”) i.e. a definitive agreement, regarding purchase of power from the Project. Pending execution of the necessary agreements and other relevant documents in relation to the transaction contemplated herein, the Parties wish to execute this PPA setting out the respective obligations of the Parties and the steps necessary to complete the transactions contemplated herein.
- H. To establish the commitment of SPD to sell and Buyer to purchase power from the Project, the Parties have entered into this Agreement.
- I. The SPD has submitted the Performance Bank Guarantee to MAHAGENCO as per the format provided in Schedule 1 of this Agreement

BUYER-SPD PPA

- J. The Parties have accordingly agreed to enter into this PPA to record their understanding and agreement with regard to the purchase of power to be generated from the Project and in respect to the matters incidental or ancillary thereto, upon the terms and conditions set out herein below.

Now therefore, in consideration of the premises and mutual agreements, covenants and conditions set forth herein, it is hereby agreed by and between the Parties as follows:

ARTICLE 1: DEFINITIONS AND INTERPRETATION**1.1 Definitions**

The terms used in this Agreement, unless as defined below or repugnant to the context, shall have the same meaning as assigned to them by the Electricity Act, 2003 and the rules or regulations framed there under, including those issued / framed by the Appropriate Commission (as defined hereunder), as amended or re-enacted from time to time.

“Act” or “Electricity Act, 2003”	shall mean the Electricity Act, 2003 and include any modifications, amendments and substitution from time to time;
“Agreement” or “Power Purchase Agreement” or “PPA”	shall mean this Power Purchase Agreement including its recitals and Schedules, amended or modified from time to time in accordance with the terms hereof;
“Appropriate Commission”	shall mean the Maharashtra Electricity Regulatory Commission as the case may be.
“Bill Dispute Notice”	shall mean the notice issued by a Party raising a Dispute regarding a Monthly Bill or a Supplementary Bill issued by the other Party;
“Business Day”	shall mean with respect to SPD and Buyer, a day other than Sunday or a statutory holiday, on which the banks remain open for business in Delhi;
“Buying Entity or “Buying Utility””	means any Discom that requires Solar power to fulfil its solar RPO under respective RPO regulations;
“Capacity Utilisation Factor” or “CUF”	shall have the same meaning as provided in CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2009 as amended from time to time; However for avoidance of any doubt, it is clarified that the CUF shall be calculated on the Contracted Capacity; In any Contract Year, if ‘X’ MWh of energy has been metered out at the Delivery Point for ‘Y’ MW Project capacity, $CUF = (X \text{ MWh} / (Y \text{ MW} * 8766)) * 100\%$;
“CERC”	shall mean the Central Electricity Regulatory Commission of India, constituted under sub – section (1) of Section 76 of the Electricity Act, 2003, or its successors;
“Change in Law”	shall have the meaning ascribed thereto in Article 12 of this Agreement;
“Commissioning”	shall have the meaning ascribed thereto in Article 5 of this Agreement;
“Commercial Operation Date (COD)”	shall mean the date on which the commissioning certificate is issued upon successful commissioning (as per provisions of this Agreement) of the project or the last part capacity of the Project as the case may be;
“Competent Court of Law”	shall mean any court or tribunal or any similar judicial or quasi-judicial body in India that has jurisdiction to adjudicate upon issues relating to this Agreement;

“Consents, Clearances and Permits”	shall mean all authorizations, 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;
“Consultation Period”	shall mean the period of ninety (90) days or such other longer period as the Parties may agree, commencing from the date of issuance of a SPD Preliminary Default Notice or Buyer Preliminary Default Notice as provided in Article 13 of this Agreement, for consultation between the Parties to mitigate the consequence of the relevant event having regard to all the circumstances;
“Contract Year”	shall mean the period beginning from the Effective Date and ending on the immediately succeeding March 31 and thereafter each period of 12 months beginning on April 1 and ending on March 31 provided that: (i) in the financial year in which the Scheduled Commissioning Date would occur, the Contract Year shall end on the date immediately before the Scheduled Commissioning Date and a new Contract Year shall commence once again from the Scheduled Commissioning Date and end on the immediately succeeding March 31, and thereafter each period of twelve (12) months commencing on April 1 and ending on March 31, and (ii) provided further that the last Contract Year of this Agreement shall end on the last day of the Term of this Agreement
"Contracted Capacity"	shall mean 250 MW contracted with Buyer for supply by the SPD to Buyer at the Delivery Point from the Solar Power Project;
“Delivery Point”	shall mean the point at the 220 kV side of the 33/220 kV Pooling Substation at the Solar Park periphery (including the dedicated transmission line connecting the solar power Projects with the substation system) as specified in the RfS document. Metering shall be done at this interconnection point where the power is injected into. For interconnection with grid and metering, the SPD shall abide by the relevant CERC/ SERC Regulations, Grid Code and Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended and revised from time to time. All charges and losses related to Transmission of power from project up to Delivery Point (including but not limited to open access (if applicable), transmission, wheeling, Unscheduled Interchange, Scheduling, Reactive power, RLDC charges etc.) as notified by the competent authority / regulator shall be borne by the SPD and beyond the Delivery Point all charges and losses as notified by the competent authority / regulator from time to time shall be borne by the Buying Utility.
“Discoms”	shall mean the Buying Utility which has signed/will sign the PSA with MAHAGENCO for purchase of Power;

“Dispute”	shall mean any dispute or difference of any kind between Buyer and the SPD, in connection with or arising out of this Agreement including but not limited to any issue on the interpretation and scope of the terms of this Agreement as provided in Article 16 of this Agreement;
"Due Date"	Due Date shall mean the forty-fifth (45th) day after a Monthly Bill (including all the relevant documents) or a Supplementary Bill is received in hard copy and duly acknowledged by the Buyer or, if such day is not a Business Day, the immediately succeeding Business Day, by which date such Monthly Bill or a Supplementary Bill is payable by the Buyer.
“Effective Date”	shall have the meaning ascribed thereto in Article 2.1 of this Agreement;
“Electricity Laws”	shall mean the Electricity Act, 2003 and the rules and regulations made there under from time to time along with amendments thereto and replacements thereof and any other Law pertaining to electricity including regulations framed by the Appropriate Commission;
"Energy Accounts"	shall mean the regional energy accounts/state energy accounts as specified in the Grid Code issued by the appropriate agency for each Month (as per their prescribed methodology), including the revisions and amendments thereof or where such regional energy accounts/state energy accounts are not issued, Joint Meter Reading (JMR) will be considered; MAHAGENCO reserves the right to choose from any of the above, i.e. JMR/SEA/ Energy Accounts, based on the acceptance of the same by the Buying Utility;
“Event of Default”	shall mean the events as defined in Article 13 of this Agreement;
“Expiry Date”	Shall mean the date occurring twenty five (25) years from the Scheduled Commissioning Date subject to that the supply of power shall be limited for a period of 25 years from the Scheduled Commissioning Date unless extended by the Parties as per this Agreement;
“Financial Closure”	shall mean compliance with the requirements under Article 3.1 of this Agreement;
“Financing Agreements”	shall mean the agreements pursuant to which the SPD has sought financing for the Power Project including the loan agreements, security documents, notes, indentures, security agreements, letters of credit and other documents, as may be amended, modified, or replaced from time to time, but without in anyway increasing the liabilities of Buyer;
"Force Majeure" or “Force Majeure Event”	shall have the meaning ascribed thereto in Article 11 of this Agreement;
“Guidelines: or “Scheme”	shall mean the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Solar PV Power Projects issued by the Ministry of Power on 3 rd August 2017;

"Grid Code" / "IEGC" or "State Grid Code"	shall mean the Grid Code specified by the CERC under Clause (h) of Sub-section (1) of Section 79 of the Electricity Act, as amended from time to time, and/or the State Grid Code as specified by the concerned State Commission, referred under Clause (h) of Sub-section (1) of Section 86 of the Electricity Act 2003, as applicable;
"Indian Governmental Instrumentality"	shall mean the Government of India, Governments of state(s) of [Insert the name(s) of the state(s) in India, where the Power Project, Buyer and SPD are located] and any ministry, department, board, authority, agency, corporation, commission under the direct or indirect control of Government of India or any of the above state Government(s) or both, any political sub-division of any of them including any court or Appropriate Commission(s) or tribunal or judicial or quasi-judicial body in India;
"Insurances"	shall mean the insurance cover to be obtained and maintained by the SPD in accordance with Article 8 of this Agreement;
"Interconnection Facilities"	shall mean the facilities on SPD's side of the Delivery Point for scheduling, transmitting and metering the electrical output in accordance with this Agreement and which shall include, without limitation, all other transmission lines and associated equipment, transformers, relay and switching equipment and protective devices, safety equipment and RTU, Data Transfer and Acquisition facilities for transmitting data subject to Article 7, the Metering System required for supply of power as per the terms of this Agreement;
"Intermediary Procurer"	shall mean Maharashtra State Power Generation Company Limited (MAHAGENCO);
"Invoice" or "Bill"	shall mean either a Monthly Bill / Supplementary Bill or a Monthly Invoice/ Supplementary Invoice raised by any of the Parties;
"Joint Control"	shall mean a situation where none of the promoter shareholders has at least 51 % shareholding in the paid up share capital and voting rights in the SPD, and the control is exercised jointly;
"Late Payment Surcharge"	shall have the meaning ascribed thereto in Article 10.3.3 of this Agreement;
"Law"	shall mean in relation to this Agreement, all laws including Electricity Laws in force in India and any statute, ordinance, regulation, notification or code, rule, or any interpretation of any of them by an Indian Governmental Instrumentality and having force of law and shall further include without limitation all applicable rules, regulations, orders, notifications by an Indian Governmental Instrumentality pursuant to or under any of them and shall include without limitation all rules, regulations, decisions and orders of the Appropriate Commission;
"Letter of Credit" or "L/C"	shall have the meaning ascribed thereto in Article 10.4 of this Agreement;
"MNRE"	shall mean the Ministry of New and Renewable Energy, Government of India;

"Month"	shall mean a period of thirty (30) days from (and excluding) the date of the event, where applicable, else a calendar month;
"Party" and "Parties"	shall have the meaning ascribed thereto in the recital to this Agreement;
"Payment Security Mechanism"	shall have the meaning ascribed thereto in Article 10.4 of this Agreement;
"Performance Bank Guarantee"	shall mean the irrevocable unconditional bank guarantee, submitted by the SPD to MAHAGENCO from a bank mentioned in Schedule 2 of this Agreement in the form attached hereto as Schedule 1;
"Power Project" or "Project"	shall mean the Solar power generation facility of Contracted Capacity of 250 MW, located at [Insert name of the place] in [Insert name of the District and State] having a separate boundary, control system, metering and separate points of injection into the grid at Delivery/Interconnection/Metering point at STU substation or in case of sharing of transmission lines, by separate injection at pooling point. This includes all units and auxiliaries such as water supply, treatment or storage facilities; bay/s for transmission system in the switchyard, dedicated transmission line up to the Delivery Point and all the other assets, buildings/structures, equipment, plant and machinery, facilities and related assets required for the efficient and economic operation of the power generation facility; whether completed or at any stage of development and construction or intended to be developed and constructed for the purpose of supply of power as per this Agreement;
"Power Sale Agreement" or "PSA"	shall mean the power sale agreement entered between the Buying Entity and Buyer (Buyer- Buying Entity PSA) for selling the Solar power as per the provisions of Guidelines;
"Preliminary Default Notice"	shall have the meaning ascribed thereto in Article 13 of this Agreement;
"Project Capacity"	shall mean the maximum AC capacity of the Project at the point of injection on which the Power Purchase Agreement has been signed.
"Project Financing Arrangements"	shall mean arrangement of necessary funds by the Project Developer either by way of commitment of funds by the company from its internal resources and/or tie up of funds through a bank / financial institution by way of sanction of a loan or letter agreeing to finance;
"Prudent Utility Practices"	shall mean the practices, methods and standards that are generally accepted internationally from time to time by electric utilities for the purpose of ensuring the safe, efficient and economic design, construction, commissioning, operation and maintenance of power generation equipment and which practices, methods and standards shall be adjusted as necessary, to take account of: a) operation and maintenance guidelines recommended by the manufacturers of the plant and equipment to be incorporated in the Power Project;

	b) the requirements of Indian Law; and the physical conditions at the site of the Power Project
“RBI”	shall mean the Reserve Bank of India;
“Rebate”	shall have the same meaning as ascribed thereto in Article 10.3.4 of this Agreement;
"RLDC"	shall mean the relevant Regional Load Dispatch Centre established under Sub-section (1) of Section 27 of the Electricity Act, 2003;
“RPC”	shall mean the relevant Regional Power Committee established by the Government of India for a specific region in accordance with the Electricity Act, 2003 for facilitating integrated operation of the power system in that region;
"Rupees", "Rs.", “₹”	shall mean Indian rupees, the lawful currency of India;
“Scheduled Commissioning Date” or “SCD”	shall mean [Insert Date] i.e. Fifteen (15) months from the Effective Date of this Agreement as applicable
“SERC”	shall mean the Electricity Regulatory Commission of any State in India constituted under Section-82 of the Electricity Act, 2003 or its successors, and includes a Joint Commission constituted under Sub-section (1) of Section 83 of the Electricity Act 2003;
“SLDC”	shall mean the centre established under Sub-section (1) of Section 31 of the Electricity Act 2003, relevant for the State(s) where the Delivery Point is located;
“SLDC Charges”	shall mean the charges levied by the SLDC of the state wherein the Solar Power Project is located;
“Solar Park”	shall mean concentrated zone of development of solar power generation projects being developed by the SPIA under GOI’s Scheme for Solar Parks and Ultra Mega Solar Power Projects and provides an area that is well characterized, with proper infra structure and access to amenities;
“Solar Photovoltaic Project” or “Solar PV Project”	shall mean the solar photovoltaic power project that uses sunlight for conversion into electricity and that is being set up by the SPD to provide Solar Power to MAHAGENCO as per the terms and conditions of this Agreement;
“Solar Power”	shall mean power generated from the Solar Photovoltaic Power Project;
“MAHAGENCO”	shall mean Maharashtra State Power Generation Company Limited;
“State Transmission Utility” or “STU”	shall mean the Board or the Government company notified by the respective State Government under Sub-section (1) of Section 39 of the Act;
"Tariff"	Shall have the same meaning as provided for in Article 9 of this Agreement;
"Tariff Payment"	shall mean the payments to be made under Monthly Bills as referred to in Article 10 and the relevant Supplementary Bills;
“Termination	shall mean the notice given by either Parties for termination of this

Notice”	Agreement in accordance with Article 13 of this Agreement;
"Term of Agreement"	shall have the meaning ascribed thereto in Article 2 of this Agreement;
“Unit/ Part Commissioning”	Subject to the compliance of conditions / procedure as detailed under Schedule-6 of this Agreement, Unit / Part Commissioning shall mean the Solar PV Capacity (AC MW) to be commissioned as per provisions of the this Agreement and RfS document.
“Unit Commercial Operation Date (UCOD)”	shall mean the date of issuance of commissioning certificate for the respective part(s) of the Power Project subsequent to the demonstration of the compliance of commissioning as per this Agreement and witnessed by the Committee duly constituted and also start of injection and scheduling power from the Power Project to the Delivery Point and availability / installation of all necessary arrangements / equipment including RTU for scheduling of power generated from the Project and transmission of data to the concerned authority as per applicable regulation;
"Week"	shall mean a calendar week commencing from 00:00 hours of Monday, and ending at 24:00 hours of the following Sunday;

1.2 ***Interpretation***

Save where the contrary is indicated, any reference in this Agreement to:

- 1.2.1 "Agreement" shall be construed as including a reference to its Schedules and/or Appendices and/or Annexures;
- 1.2.2 An "Article", a "Recital", a "Schedule" and a "paragraph / clause" shall be construed as a reference to an Article, a Recital, a Schedule and a paragraph/clause respectively of this Agreement;
- 1.2.3 A "crore" means a reference to ten million (10,000,000) and a "lakh" means a reference to one tenth of a million (1,00,000);
- 1.2.4 An "encumbrance" shall be construed as a reference to a mortgage, charge, pledge, lien or other encumbrance securing any obligation of any person or any other type of preferential arrangement (including, without limitation, title transfer and retention arrangements) having a similar effect;
- 1.2.5 "Indebtedness" shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.2.6 A "person" shall be construed as a reference to any person, 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 two or more of the above and a person shall be construed as including a reference to its successors, permitted transferees and permitted assigns in accordance with their respective interests;
- 1.2.7 "Rupee", "Rupees", "Rs" or new rupee symbol "₹" shall denote Indian Rupees, the lawful currency of India;
- 1.2.8 The "Soaring-up", "dissolution", "insolvency", or "reorganization" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the Law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, Soaring-up, reorganization, dissolution, arrangement, protection or relief of debtors;
- 1.2.9 Words importing the singular shall include the plural and vice versa;
- 1.2.10 This Agreement itself or any other agreement or document shall be construed as a reference to this or to such other agreement or document as it may have been, or may from time to time be, amended, varied, novated, replaced or supplemented;
- 1.2.11 A Law shall be construed as a reference to such Law including its amendments or

BUYER-SPD PPA

re- enactments from time to time;

1.2.12 A time of day shall, save as otherwise provided in any agreement or document be construed as a reference to Indian Standard Time;

1.2.13 Different parts of this Agreement are to be taken as mutually explanatory and supplementary to each other and if there is any inconsistency between or among the parts of this Agreement, they shall be interpreted in a harmonious manner so as to give effect to each part;

1.2.14 The tables of contents and any headings or sub-headings in this Agreement have been inserted for ease of reference only and shall not affect the interpretation of this Agreement;

1.2.15 All interest, if applicable and payable under this Agreement, shall accrue from day to day and be calculated on the basis of a year of three hundred and sixty five (365) days;

1.2.16 The words “hereof” or “herein”, if and when used in this Agreement shall mean a reference to this Agreement;

1.2.17 The terms “including” or “including without limitation” shall mean that any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;

ARTICLE 2: TERM OF AGREEMENT

2.1 *Effective Date*

2.1.1 This Agreement shall come into effect from (Enter the date as on 30th day of the issuance of Letter of Intent to the SPD) and such date shall be referred to as the Effective Date.

2.1.2 The Parties agree that adoption of the Tariff along with MAHAGENCO's trading margin, and approval of the same, for procurement of contracted capacity, shall be the responsibility of the Discom(s), and shall be dealt by all Parties concerned under Section 63 of the Electricity Act, 2003 and any amendments thereof.

2.2 *Term of Agreement*

2.2.1 Subject to Article 2.3 and 2.4 of this Agreement, this Agreement shall be valid for a term from the Effective Date until the Expiry Date. This Agreement may be extended for a further period at least one hundred eighty (180) days prior to the Expiry Date, on mutually agreed terms and conditions.

2.2.2 The SPD is free to operate their plants beyond the Expiry Date if other conditions like land lease / Right to Use of Land (as applicable), permits, approvals and clearances etc. allow. In such case unless otherwise agreed by the MAHAGENCO, MAHAGENCO shall not be obligated to procure power beyond the Expiry Date.

2.3 *Early Termination*

2.3.1 This Agreement shall terminate before the Expiry Date if either Buyer or SPD terminates the Agreement, pursuant to Article 13 of this Agreement.

2.4 *Survival*

2.4.1 The expiry or termination of this Agreement shall not affect any accrued rights, obligations and liabilities of the Parties under this Agreement, including the right to receive penalty as per the terms of this Agreement, nor shall it affect the survival of any continuing obligations for which this Agreement provides, either expressly or by necessary implication, which are to survive after the Expiry Date or termination including those under Article 11 (Force Majeure), Article 13 (Events of Default and Termination), Article 14 (Liability and Indemnification), Article 16 (Governing Law and Dispute Resolution), Article 17 (Miscellaneous Provisions), and other Articles and Schedules of this Agreement which expressly or by their nature survive the Term or termination of

BUYER-SPD PPA

this Agreement shall continue and survive any expiry or termination of this Agreement.

ARTICLE 3: CONDITIONS SUBSEQUENT

3.1 Satisfaction of conditions subsequent by the SPD

- a) The SPD agrees and undertakes to duly perform and complete all of the following activities at SPD's own risk and cost within Nine (9) months from the Effective Date, i.e. by _____ [insert the date which is Nine (9) months from the Effective Date of this agreement] unless such completion is affected by any Force Majeure event, or if any of the activities is specifically waived in writing by MAHAGENCO: The SPD shall make Project financing arrangements and provide necessary certificates to MAHAGENCO in this regard;

- b) The SPD shall enter into an Implementation Support Agreement with Solar Park Implementation Agency (SPIA) and/or Lease Deed/Right to Use Agreement (as applicable) with the SPPD for Land & associated infrastructure for development of the Project inside the Solar Park and for connectivity with the STU/CTU System for confirming the evacuation of power by the Scheduled Commissioning Date;

.....The SPD shall submit to MAHAGENCO the relevant documents as stated above, complying with the Conditions Subsequent, within Nine (9) months from the Effective Date of this agreement.

3.2 Consequences of non-fulfilment of conditions subsequent and financial closure

- 3.2.1 In case of a failure to submit the documents as above, MAHAGENCO shall encash the Performance Bank Guarantee submitted by the SPD, terminate this Agreement and remove the Project from the list of the selected Projects by giving a notice to the SPD in writing of at least seven (7) days, unless the delay (subject to the conditions that SPD has made / is making all possible efforts) is on account of delay in allotment of Land by the Government not owing to any action or inaction on the part of the SPD or caused due to a Force Majeure. Unless extended as per provisions of Article 3.2.1.(i) of this Agreement in writing, the termination of the Agreement shall take effect upon the expiry of the 7th day of the above notice.

An extension, without any impact on the Scheduled Commissioning Date, can however be considered, on the sole request of SPD, on payment of Rs. 10,000/- per day per MW to MAHAGENCO. Such extension charges are required to be paid to MAHAGENCO in advance, for the period of extension required. In case of any delay in depositing this extension charge, SPD shall pay an interest on this extension

BUYER-SPD PPA

charge for the days lapsed beyond due date of Financial Closure. In case such delay in making payment of the extension charges to MAHAGENCO is more than 7 days, the termination of the Agreement shall take effect upon the expiry of such 7th day. This amount will go into the Payment Security Mechanism. In case of the SPD meeting the requirements of conditions subsequent and financial closure before the last date of such proposed delay period, the remaining amount deposited by the SPD shall be returned by MAHAGENCO without interest. This extension will not have any impact on the Scheduled Commissioning Date. Any extension charges paid so by the SPD, shall be returned to the SPD without any interest on achievement of successful commissioning within the Scheduled Commissioning Date, on pro-rata basis, based on the project capacity commissioned as on Scheduled Commissioned Date. However, in case the SPD fails to commission the Contract Capacity by Scheduled Commissioning Date, the extension charges deposited by the SPD shall not be refunded by MAHAGENCO.

- 3.2.1(i) An extension, without any impact on the Scheduled Commissioning Date, can however be considered, on the sole request of SPD, on payment of Rs. 10,000/- per day per MW +18% GST to MAHAGENCO.
- 3.2.2 For the avoidance of doubt, it is clarified that this Article shall survive the termination of this Agreement.
- 3.2.4 In case of inability of the SPD to fulfil any one or more of the conditions specified in Article 3.1 due to any Force Majeure event, the time period for fulfilment of the Conditions Subsequent and Financial Closure as mentioned in Article 3.1, shall be extended for the period of such Force Majeure event. In case of delay in handing over of land by the SPIA as per the timeline specified in the Land Agreement, other than for any reason attributable to the SPD, such delay may entail a corresponding extension in financial closure and Scheduled Commissioning Date.
- 3.2.5 Provided that due to the provisions of this Article 3.2.4, any increase in the time period for completion of conditions subsequent and financial closure mentioned under Article 3.1, shall also lead to an equal extension in the Scheduled Commissioning Date.

3.3 Performance Bank Guarantee

- 3.3.1 The Performance Bank Guarantee (PBG) having validity from the date of submission of PBG until Twenty Seven (27) months from the Effective Date of PPA

BUYER-SPD PPA

and for an amount of Rs. 10.5 Lakh/MW to be furnished under this Agreement shall be for guaranteeing the commencement of the supply of power up to the Contracted Capacity within the time specified in this Agreement as per format provided in Schedule 1.

- 3.3.2 The failure on the part of the SPD to furnish and maintain the Performance Bank Guarantee shall be a material breach of the term of this Agreement on the part of the SPD.
- 3.3.3 If the SPD fails to commence supply of power from the Scheduled Commissioning Date specified in this Agreement or any further extension thereof granted by MAHAGENCO, subject to conditions mentioned in Article 4.5, MAHAGENCO shall encash the Performance Bank Guarantee without prejudice to the other rights of MAHAGENCO under this Agreement.

3.4 Return of Performance Bank Guarantee

- 3.4.1 Subject to Article 3.3, MAHAGENCO shall return / release the Performance Bank Guarantee immediately after the successful Commissioning of the Project after taking into account any liquidated damages / penalties due to delays in commissioning as per provisions stipulated in this Agreement.
- 3.4.2 The return / release of the Performance Bank Guarantee shall be without prejudice to other rights of MAHAGENCO under this Agreement.

ARTICLE 4: CONSTRUCTION & DEVELOPMENT OF THE PROJECT

4.1 *SPD's Obligations*

4.1.1 The SPD undertakes to be responsible, at SPD's own cost and risk, for:

- a) obtaining all Consents, Clearances and Permits as required and maintaining all Consents, Clearances and Permits in full force and effect during the Term of this Agreement; and
- b) designing, constructing, erecting, commissioning, completing and testing the Power Project in accordance with the applicable Law, the Grid Code, the terms and conditions of this Agreement and Prudent Utility Practices.
- c) the commencement of supply of power up to the Contracted Capacity to MAHAGENCO no later than the Scheduled Commissioning Date and continuance of the supply of power throughout the term of the Agreement;
- d) connecting the Power Project switchyard with the Interconnection Facilities at the Delivery Point;
- e) owning the Power Project throughout the Term of Agreement free and clear of encumbrances, except those expressly permitted under Article 15;
- f) maintaining its controlling shareholding (controlling shareholding shall mean more than 50% of the voting rights and paid-up share capital) prevalent at the time of signing of PPA up to a period of one (1) year after Commercial Operation Date of the Project, in line with provisions of the RfS document. However transfer of controlling shareholding within the same Group Companies will be allowed with the permission of MAHAGENCO after COD subject to the condition that the management control remains within the same Group Companies;
- f) fulfilling all obligations undertaken by the SPD under this Agreement.
- g) Not Used.
- h) The SPD shall be responsible to for directly coordinating and dealing with the corresponding Buying Utility(ies), Load Dispatch Centres, Regional Power Committees, and other authorities in all respects in regard to declaration of availability, scheduling and dispatch of Solar Power and due compliance with deviation and settlement mechanism and the applicable Grid code/State/Central Regulations, acknowledging that the SPD and the corresponding Buying Utility(ies) are the Grid connected entities and MAHAGENCO as an Intermediary Procurer/ trading licensee is not a Grid connected entity in respect of the Solar Power contracted under this Agreement.

4.2 ***Information regarding Interconnection Facilities***

- 4.2.1 The SPD shall be required to obtain all information from the STU/CTU/concerned authority with regard to the Interconnection Facilities as is reasonably necessary to enable it to design, install and operate all interconnection plant and apparatus on the SPD's side of the Delivery Point to enable delivery of electricity at the Delivery Point. The transmission of power up to the point of interconnection where the metering is done for energy accounting shall be the responsibility of the SPD at his own cost.
- 4.2.2 Penalties, fines and charges imposed by the CTU/ STU under any statute or regulation in relation to delay in commissioning of Project shall be payable by the SPD to the extent the delay is attributable to the SPD.
- 4.2.3 The responsibility of getting connectivity with the transmission system up to the Interconnection Point as per the SPIA terms and conditions, will lie with the SPD. The transmission of power up to the point of interconnection where the metering is done for energy accounting shall be the responsibility of the SPD at his own cost. The maintenance of Transmission system up to the designated point as per the terms and conditions of SPIA shall be the responsibility of the SPD. All costs and charges including but not limited to the wheeling charges and losses up to the Interconnection Point associated with this arrangement will also be borne by the SPD.
- 4.2.4 Not used.
- 4.2.5 The arrangement of connectivity shall be made by the SPD through a dedicated transmission line as instructed by the SPIA. The entire cost of transmission including cost of construction of line, any other charges, losses etc. from the Project up to the Interconnection Point will be borne by the SPD. In case of non-availability of Grid and Transmission System during Term of this Agreement, for reasons not attributable to the SPD, provisions of Article 4.10 shall be applicable.
- 4.3 ***Purchase and sale of Contracted Capacity***
- 4.3.1 Subject to the terms and conditions of this Agreement, the SPD undertakes to sell to Buyer and Buyer undertakes to pay Tariff for all the energy supplied at the Delivery Point corresponding to the Contracted Capacity.

4.4 ***Right to Contracted Capacity & Energy***

4.4.1 MAHAGENCO, in any Contract Year, shall not be obliged to purchase any additional energy from the SPD beyond Million kWh (MU). If for any Contract Year, it is found that the SPD has not been able to generate minimum energy ofMillion kWh (MU) till the end of 10 years from the SCD and Million kWh (MU) for the rest of the Term of the Agreement, on account of reasons solely attributable to the SPD, the non-compliance by SPD shall make the SPD liable to pay the compensation provided in the respective PSA as payable to Buying Entity(ies) by Buyer to enable Buyer to remit the amount to Buying Entity(ies). The lower limit will, however be relaxable by Buyer to the extent of grid non-availability for evacuation which is beyond the control of the SPD (as certified by the SLDC/RLDC). This compensation shall be applied to the amount of shortfall in generation during the Contract Year. The amount of such penalty shall be as determined by the respective State Electricity Regulatory Commission of the corresponding Buying Entity/ any such Authority, and such penalty shall ensure that the Buying Entity(ies) is/are offset for all potential costs associated with low generation and supply of power under the PPA. However, the minimum compensation payable to MAHAGENCO by the SPD shall be 25% (twenty-five percent) of the cost of this shortfall in energy terms, calculated at PPA tariff. This compensation shall not be applicable in events of Force Majeure identified under PPA with MAHAGENCO affecting supply of solar power by SPD.

4.4.2 Any excess generation over and above as per Article 4.4.1, may be purchased by MAHAGENCO at a tariff as per Article 9.4, provided Buying Entity consents to purchase such power. While the SPD would be free to install the DC solar field as per its design of required output, including its requirement of auxiliary consumption and to reconfigure and repower the Project from time to time during the term of the PPA, it will not be allowed to sell any excess power to any other entity other than MAHAGENCO (unless refused by MAHAGENCO). The SPD shall be required to intimate the MAHAGENCO about the proposed excess quantum of energy likely to be generated from the Project within any Contract Year, at least 60 days prior to the proposed date of commencement of excess generation. The MAHAGENCO shall be required to intimate its approval/refusal to the SPD, for buying such excess generation not later than 30 days of receiving

BUYER-SPD PPA

the above offer from the SPD. In the event the offer of the SPD is not accepted by the MAHAGENCO within the said period of 30 days, such right shall cease to exist and the SPD shall, at its sole discretion, may sell such excess power to any third party.

However, in case at any point of time, the peak of capacity reached is higher than the contracted capacity and causes disturbance in the system at the point where power is injected, the SPD will have to forego the excess generation and reduce the output to the rated capacity and shall also have to pay the penalty/charges (if applicable) as per applicable regulations / requirements / guidelines of CERC / SERC /SLDC or any other competent agency.

Any energy produced and flowing into the grid before Scheduled Commissioning Date shall not be at the cost of MAHAGENCO. MAHAGENCO may agree to buy such power at a tariff as agreed to between MAHAGENCO and the Buying Entity (including MAHAGENCO's trading margin), provided the Buying Utility consents for purchase of such power.

4.5 *Extensions of Time*

4.5.1 In the event that the SPD is prevented from performing its obligations under Article 4.1 by the Scheduled Commissioning Date due to:

- a) any Buyer Event of Default; or
- b) Force Majeure Events affecting Buyer/ Buying Entity , or
- c) Force Majeure Events affecting the SPD,

the Scheduled Commissioning Date and the Expiry Date shall be deferred, subject to Article 4.5.6, for a reasonable period but not less than 'day for day' basis, to permit the SPD or MAHAGENCO/ Buying Entity through the use of due diligence, to overcome the effects of the Force Majeure Events affecting the SPD or MAHAGENCO, or till such time such Event of Default is rectified by Buyer.

4.5.2 Subject to the Article 3.2.1 and 4.6.2, the SPD shall be required to intimate MAHAGENCO about the possible delays in allotment of Land or Connectivity in the Solar Park by the SPIA at least 45 days before the scheduled date. MAHAGENCO can extend the time for financial closure up to 3 months, without any financial implications to the SPD, as brought out in Article 3.2.2. For any extension beyond the period of 3 months, MAHAGENCO will approach MNRE, who will be authorized to decide on further extension with the approval of Secretary, MNRE.

BUYER-SPD PPA

- 4.5.3 In case of extension due to reasons specified in Article 4.5.1(b) and (c), and if such Force Majeure Event continues even after a maximum period of three (3) months, any of the Parties may choose to terminate the Agreement as per the provisions of Article 13.5.
- 4.5.4 If the Parties have not agreed, within thirty (30) days after the affected Party's performance has ceased to be affected by the relevant circumstance, on the time period by which the Scheduled Commissioning Date or the Expiry Date should be deferred, any Party may raise the Dispute to be resolved in accordance with Article 16.
- 4.5.5 As a result of such extension, the newly determined Scheduled Commissioning Date and newly determined Expiry Date shall be deemed to be the Scheduled Commissioning Date and the Expiry Date for the purposes of this Agreement.
- 4.5.6 Notwithstanding anything to the contrary contained in this Agreement, any extension of the Scheduled Commissioning Date arising due to any reason envisaged in this Agreement shall not be allowed beyond the date pursuant to Article 4.6.2.

4.6 Liquidated Damages not amounting to penalty for delay in Commissioning

- 4.6.1 If the SPD is unable to commission the Project by the Scheduled Commissioning Date other than for the reasons specified in Article 4.5.1 and 4.5.2, the SPD shall pay to MAHAGENCO, damages for the delay in such commissioning and making the Contracted Capacity available for dispatch by the Scheduled Commissioning Date as per the following:
- (a) Delay beyond the Scheduled Commissioning Date upto (& including) the date as on 21 Months from the Effective Date: The total PBG amount shall be encashed on per day basis.
- a. 4.6.2 The maximum time period allowed for commissioning of the full Project Capacity with encashment of Performance Bank Guarantee shall be limited to 21 Months from the Effective Date of this Agreement (as applicable). In case, the Commissioning of the Project is delayed beyond 21 Months from the Effective Date, Generators event of default as per MoP Guidelines shall be considered and the contracted capacity shall stand reduced to the project capacity commissioned upto **SCD + 6 Months**. The PPA of balance capacity not commissioned shall be terminated.

4.7 Acceptance/Performance Test

4.7.1 Prior to synchronization of the Power Project, the SPD shall be required to get the Project certified for the requisite acceptance/performance test as may be laid down by Central Electricity Authority or an agency identified by the central government to carry out testing and certification for the Solar power projects.

4.8 Third Party Verification

4.8.1 The SPD shall be further required to provide entry to the site of the Power Project free of all encumbrances at all times during the Term of the Agreement to Buyer and a third Party nominated by any Indian Governmental Instrumentality for inspection and verification of the works being carried out by the SPD at the site of the Power Project.

4.8.2 The third party may verify the construction works/operation of the Power Project being carried out by the SPD and if it is found that the construction works/operation of the Power Project is not as per the Prudent Utility Practices, it may seek clarifications from SPD or require the works to be stopped or to comply with the instructions of such third party.

4.9 Breach of Obligations

4.9.1 The Parties herein agree that during the subsistence of this Agreement, subject to Buyer being in compliance of its obligations & undertakings under this Agreement, the SPD would have no right to negotiate or enter into any dialogue with any third party for the sale of Contracted Capacity of power which is the subject matter of this Agreement. It is the specific understanding between the Parties that such bar will apply throughout the entire term of this Agreement.

4.10 Generation compensation for Off-take constraints

4.10.1 Generation Compensation in offtake constraint due to Transmission Infrastructure not complete/ ready (Transmission constraint): After the Scheduled Commissioning Date, subject to the submission of documentary evidences from the Competent Authority, if the plant is ready but the necessary power evacuation/transmission infrastructure is not ready, for reasons not attributable to the SPD, leading to offtake constraint, the generation compensation shall be restricted to the following and there shall be no other claim, directly or indirectly against MAHAGENCO.:

Transmission Constraint	Provision for Generation Compensation
If the Project is ready but the necessary power evacuation/transmission infrastructure is not ready, leading to offtake constraint	<p>a. The normative CUF of 19% (nineteen per cent) or committed CUF, whichever is lower, for the period of grid unavailability, shall be taken for the purpose of calculation of generation loss. Corresponding to this generation loss, the excess generation by the SPD in the succeeding 3 (three) Contract Years, shall be procured by MAHAGENCO at the PPA tariff so as to offset this loss.</p> <p>b. If the transmission delay is directly attributable to the organization building the transmission network and some penalty is imposed on him, then a part of that penalty may be utilized by MAHAGENCO for compensating the generation loss.</p>

However, it is clarified that if the project is ready for commissioning prior to the Scheduled Commissioning Date, but the offtake is constrained because of inadequate/incomplete power evacuation infrastructure, no compensation shall be permissible.

4.10.2 Generation Compensation in offtake constraints due to Grid Unavailability:

During the operation of the plant, there can be some periods where the Project can generate power but due to temporary transmission unavailability, the power is not evacuated, for reasons not attributable to the Solar Power Developer. In such cases, subject to the submission of documentary evidences from the competent authority, the generation compensation shall be restricted to the following and there shall be no other claim, directly or indirectly against MAHAGENCO:

Duration of Grid unavailability	Provision for Generation Compensation
Grid unavailability in a contract year as defined in the PPA: (only period from 8 am to 6 pm to be counted):	<p><i>Generation Loss = [(Average Generation per hour during the Contract Year) × (number of hours of grid unavailability during the Contract Year)]</i></p> <p>Where, Average Generation per hour during the Contract Year (kWh) = Total generation in the Contract Year (kWh) ÷ Total hours of generation in the Contract Year.</p>

The excess generation by the SPD equal to this generation loss shall be procured by MAHAGENCO at the PPA tariff so as to offset this loss in the succeeding 3 (three) Contract Years.

4.10.3 Offtake constraints due to Backdown: The Solar Power Developer and MAHAGENCO shall follow the forecasting and scheduling process as per the regulations in this regard by the Appropriate Commission. In the eventuality of backdown, subject to the submission of documentary evidences from the competent authority, the SPD shall be eligible for a minimum generation compensation, from MAHAGENCO, restricted to the following and there shall be no other claim, directly or indirectly against MAHAGENCO.

Duration of Backdown	Provision for Generation Compensation
Hours of Backdown during a monthly billing cycle.	<p><i>Generation Compensation = 100% of [(Average Generation per hour during the month) X (number of backdown hours during the month)] X PPA tariff</i></p> <p>Where, Average Generation per hour during the month (kWh) = Total generation in the month (kWh) ÷ Total hours of generation in the month</p>

The SPD shall not be eligible for any compensation in case the Backdown is on account of events like consideration of grid security or safety of any equipment or personnel or other such conditions.

The Generation Compensation shall be paid as part of the energy bill for the successive month after receipt of Regional Energy Accounts (Energy Accounts)/SEA/JMR. No (Insert Project ID)

BUYER-SPD PPA

Trading Margin shall be applicable on the Generation Compensation as provided in Article 4.10.3 only.

It is hereby clarified that for the purpose of Article 4.10, “generation” shall mean Joint Meter Reading (JMR) at the Delivery Point.

ARTICLE 5: SYNCHRONISATION, COMMISSIONING AND COMMERCIAL OPERATION

5.1 *Synchronization, Commissioning and Commercial Operation*

- 5.1.1 The SPD shall give the concerned RLDC/SLDC and Buyer at least sixty (60) days' advanced preliminary written notice and at least thirty (30) days' advanced final written notice, of the date on which it intends to synchronize the Power Project to the Grid System.
- 5.1.2 Subject to Article 5.1.1, the Power Project may be synchronized by the SPD to the Grid System when it meets all the connection conditions prescribed in applicable Grid Code then in effect and otherwise meets all other Indian legal requirements for synchronization to the Grid System.
- 5.1.3 The synchronization equipment and all necessary arrangements / equipment including RTU for scheduling of power generated from the Project and transmission of data to the concerned authority as per applicable regulation shall be installed by the SPD at its generation facility of the Power Project at its own cost. The SPD shall synchronize its system with the Grid System only after the approval of synchronization scheme is granted by the head of the concerned sub-station/Grid System and checking/verification is made by the concerned authorities of the Grid System.
- 5.1.4 The SPD shall immediately after each synchronization/tripping of generator, inform the sub-station of the Grid System to which the Power Project is electrically connected in accordance with applicable Grid Code under intimation to MAHAGENCO. In addition, the SPD will inject in-firm power to grid time to time to carry out operational/ functional test prior to commercial operation. For avoidance of doubt, it is clarified that Synchronization / Connectivity of the Project with the grid shall not to be considered as Commissioning of the Project.
- 5.1.5 The SPD shall commission the Project as detailed in "Schedule 6: Commissioning Procedure" within Fifteen (15) Months of the Effective Date. Declaration of COD / UCOD shall only be done subject to the demonstration of the compliances as per Schedule-6 and subsequent upon the successful visit by the Commissioning Committee.

ARTICLE 6: DISPATCH AND SCHEDULING

6.1 *Dispatch and Scheduling*

6.1.1 The SPD shall be required to schedule its power as per the applicable regulations / requirements / guidelines of CERC / SERC /SLDC / RLDC or any other competent agency and same being recognized by the SLDC/RLDC or any other competent authority / agency as per applicable regulation/ law / direction and maintain compliance to the applicable Codes/ Grid Code requirements and directions, if any, as specified by concerned SLDC/RLDC from time to time. Any deviation from the Schedule will attract the provisions of applicable regulation / guidelines / directions and any financial implication on account of this shall be on the account of the SPD.

6.1.2 Not Used.

6.1.3 The SPD shall be responsible for any deviation from scheduling and for any resultant liabilities on account of charges for deviation as per applicable regulations. UI charges on this account shall be directly paid by the SPD.

6.1.4 Auxiliary power consumption will be treated as per the concern state regulations.

ARTICLE 7: METERING

7.1 Meters

- 7.1.1 For installation of Meters, Meter testing, Meter calibration and Meter reading and all matters incidental thereto, the SPD and Buyer shall follow and be bound by the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, the Grid Code, as amended and revised from time to time.
- 7.1.2 The SPD shall bear all costs pertaining to installation, testing, calibration, maintenance, renewal and repair of meters at SPD's side of Delivery Point.
- 7.1.3 In addition to ensuring compliance of the applicable codes, the SPD shall install Main & Check meters at the Delivery Point, along with Stand-by meter(s) as per the applicable regulations of the State where the Project is located.
- 7.1.4 Not Used.

7.2 Reporting of Metered Data and Parameters

- 7.2.1 The grid connected Solar PV power plants will install necessary equipment for regular monitoring of solar irradiance (including GHI, DHI and solar radiation in the module plane), ambient air temperature, wind speed and other weather parameters and simultaneously for monitoring of the electric power (both DC and AC) generated from the Project.
- 7.2.2 Online arrangement would have to be made by the SPD for submission of above data regularly for the entire period of this Power Purchase Agreement to the SLDC, SPIA, MAHAGENCO and the concerned Ministry or concerned agency as per applicable regulation / directions.
- 7.2.3 Reports on above parameters on monthly basis (or as required by regulation / guidelines) shall be submitted by the SPD to Ministry of New and Renewable Energy/ MAHAGENCO/National Institute of Solar Energy/SPIA through Buyer for entire period of PPA.

ARTICLE 8: INSURANCES

8.1 *Insurance*

8.1.1 The SPD shall effect and maintain or cause to be effected and maintained, at its own cost and expense, throughout the Term of PPA, Insurances against such risks to keep the Project in good condition and shall take Industrial All Risk insurance policy covering risks against any loss or damage, with such deductibles and with such endorsements and co-insured(s), which the Prudent Utility Practices would ordinarily merit maintenance of and as required under the Financing Agreements, Implementation and Support Agreement and under applicable laws.

8.2 *Application of Insurance Proceeds*

8.2.1 In case of the Project not being implemented through Financing Agreement(s), save as expressly provided in this Agreement or the Insurances, the proceeds of any insurance claim made due to loss or damage to the Power Project or any part of the Power Project shall be first applied to reinstatement, replacement or renewal of such loss or damage.

In case of the Project being financed through Financing Agreement(s), save as expressly provided in this Agreement or the Insurances, the proceeds of any insurance claim made due to loss or damage to the Power Project or any part of the Power Project shall be applied as per such Financing Agreements.

8.2.2 If a Force Majeure Event renders the Power Project no longer economically and technically viable and the insurers under the Insurances make payment on a “total loss” or equivalent basis, Buyer shall have claim on such proceeds of such Insurance limited to outstanding dues of MAHAGENCO against the Buying Utility as per PSA entered into and any other dues of the Buying Utility/SPIA against SPD...

8.3 *Effect on liability of Buyer*

8.3.1 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 SPD can claim compensation, under any Insurance shall not be charged to or payable by Buyer. It is for the SPD to ensure that appropriate insurance coverage is taken for payment by the insurer for the entire loss and there is no under insurance or short adjustment etc.

ARTICLE 9: APPLICABLE TARIFF

- 9.1 The SPD shall be entitled to receive the Tariff of Rs. _____/ kWh [Insert the Tariff discovered through the bidding process conducted by MAHAGENCO], fixed for the entire term of this Agreement, with effect from the SCD, for the power sold by the Buyer to the Buying Entity for the scheduled energy as reflected in the Energy Accounts. In case of early part-commissioning, till SCD, subject to the consent for such purchase by the Buying Utility, MAHAGENCO may purchase the generation @ 75% (seventy-five per cent) of the PPA tariff. However, in case the entire Project capacity is commissioned prior to SCD, MAHAGENCO may purchase energy supplied till SCD at [Insert Tariff]/kWh. In both the cases of early part or full commissioning of the Project, the Applicable Tariff for the commissioned Project shall be _____[Insert Tariff]/kWh from and including the SCD.
- 9.2 Any excess generation over and above energy specified in Article 4.4.1, will be purchased by MAHAGENCO at a tariff of 75% of the tariff as per Article 9.1, provided the Buying Entity consents for purchase of such excess generation. Any energy produced and flowing into the grid before SCD shall not be at the cost of MAHAGENCO. MAHAGENCO may agree to buy such power provided Buying Entity consents to purchase such energy. However, the SPD will not be allowed to sell energy generated prior to SCD or excess energy during any Contract Year to any other entity other than MAHAGENCO (unless refused by MAHAGENCO).

ARTICLE 10: BILLING AND PAYMENT

10.1 *General*

10.1.1 Subject to the DISCOM providing Payment Security Fund under the PSA, MAHAGENCO shall set up a payment security fund in order to ensure timely payment to the SPDs. This fund will have a corpus to cover 3 months' payment.

10.1.2 From the commencement of supply of power, MAHAGENCO shall pay to the SPD the monthly Tariff Payments subject to the adjustments as per provisions of this Agreement including Article 6, in accordance with Article 9. All Tariff Payments by Buyer shall be in Indian Rupees.

10.1.3 The SPD shall be required to make arrangements and payments for import of energy (if any) as per applicable regulations.

10.2 *Delivery and Content of Monthly Bills/Supplementary Bills*

10.2.1 The SPD shall issue to MAHAGENCO hard copy of a signed Monthly Bill/Supplementary Bill for the immediately preceding Month/relevant period based on the issuance of Energy Accounts along with all relevant documents (payments made by SPD for drawal of power, payment of reactive energy charges, Metering charges or any other charges as per guidelines of SERC/CERC, if applicable.

Each Monthly Bill shall include all charges as per this Agreement for the energy supplied for the relevant Month based on Energy Accounts issued by RLDC/SLDC or any other competent authority which shall be binding on both the Parties. The Monthly Bill amount shall be the product of the energy as per the Energy Account and the Applicable Tariff. .

10.2.2 As per applicable regulation(s) of the Appropriate Commission(s)/respective SERC(s), all charges pertaining to obtaining open access and scheduling of power, if any, shall be borne by the SPD.

10.3 *Payment of Monthly Bills*

10.3.1 Buyer shall pay the amount payable under the Monthly Bill/Supplementary Bill by the Due Date to such account of the SPD, as shall have been previously notified by the SPD in accordance with Article 10.3.2 iii) below.

10.3.2 All payments required to be made under this Agreement shall also include any deduction or set off for:

BUYER-SPD PPA

- i) deductions required by the Law; and
- ii) amount claimed by Buyer, if any, from the SPD, will be adjusted from the monthly energy payment. In case of any excess payment adjustment, 1.25% surcharge will be applicable on day to day basis.

The SPD shall open a bank account (the "SPD's Designated Account") for all Tariff Payments (including Supplementary Bills) to be made by Buyer to the SPD, and notify Buyer of the details of such account at least ninety (90) Days before the dispatch of the first Monthly Bill. Buyer shall also designate a bank account at Mumbai ("Buyer's Designated Account") for payments to be made by the SPD to Buyer, if any, and notify the SPD of the details of such account ninety (90) Days before the Scheduled Commissioning Date. Buyer and the SPD shall instruct their respective bankers to make all payments under this Agreement to the SPD's Designated Account or Buyer's Designated Account, as the case may be, and shall notify either Party of such instructions on the same day.

10.3.3 Late Payment Surcharge

In the event of delay in payment of a Monthly Bill by Buyer beyond thirty (30) days of its Due Date, a Late Payment Surcharge shall be payable to the SPD at the rate of 1.25% per month on the outstanding amount calculated on a day to day basis subject to such late payment being duly received by Buyer under the PSA from the Buying Entity(ies). The Late Payment Surcharge shall be claimed by the SPD through the Supplementary Bill.

10.3.4 Subject to the Article 9 of this Agreement, in the event of early Commissioning of the Project and subject to acceptance by MAHAGENCO, the payment for the power fed to the grid may be accounted from the date of UCOD, but SPD would be allowed to raise Bills against such power only from the Scheduled Commissioning Date or UCOD whichever is later subject to the conditions as stipulated in Article 9.

10.3.5 Rebate

For payment of any Bill on or before Due Date, the following Rebate shall be paid by the SPD to Buyer in the following manner.

- a) A Rebate of 2% shall be payable to the Buyer for the payments made within a period of 10 (ten) days of the presentation of hard copy of Bill along

BUYER-SPD PPA

with required supporting documents at MAHAGENCO office.

- b) Any payments made after ten (10) days of the date of presentation of hard copy of the Bill along with the required supporting documents at MAHAGENCO office up to the Due Date shall be allowed a rebate of 1 %.
- c) For the above purpose, the date of presentation of Bill shall be the next Business Day of delivery of the physical copy of the Bill at MAHAGENCO. .
- d) No Rebate shall be payable on the Bills raised on account of Change in Law relating to taxes, duties, cess etc. and on Supplementary Bill.

For the above purpose date of presentation of bill shall be the same day of delivery in hard copy. However, for consideration of rebate, next business day shall be considered.

10.4 Payment Security Mechanism

Letter of Credit (LC):

10.4.1 Subject to opening and maintenance of Letter of Credit by the Buying Entity (as per terms of Buyer-Buying Entity PSA) in favour of the Buyer, the Buyer shall provide to the SPD, in respect of payment of its Monthly Bills and/or Supplementary Bills, a monthly unconditional, revolving and irrevocable letter of credit (“Letter of Credit”), opened and maintained which may be drawn upon by the SPD in accordance with this Article.

10.4.2 Subject to Article 10.4.1, not later than one (1) Month before the start of supply, Buyer through a scheduled bank open a Letter of Credit in favour of the SPD, to be made operative from a date prior to the Due Date of its first Monthly Bill under this Agreement. The Letter of Credit shall have a term of twelve (12) Months and shall be renewed annually, for an amount equal to:

- i) for the first Contract Year, equal to the estimated average monthly billing;
- ii) for each subsequent Contract Year, equal to the average of the monthly billing of the previous Contract Year.

10.4.3 Provided that the SPD shall not draw upon such Letter of Credit prior to the Due Date of the relevant Monthly Bill and/or Supplementary Bill, and shall not make more than one drawal in a Month.

BUYER-SPD PPA

- 10.4.4 Provided further that if at any time, such Letter of Credit amount falls short of the amount specified in Article 10.4.2 due to any reason whatsoever, Buyer shall restore such shortfall within fifteen (15) days.
- 10.4.5 Buyer shall cause the scheduled bank issuing the Letter of Credit to intimate the SPD, in writing regarding establishing of such irrevocable Letter of Credit.
- 10.4.6 Buyer shall ensure that the Letter of Credit shall be renewed not later than its expiry.
- 10.4.7 All costs relating to opening, maintenance of the Letter of Credit shall be borne by Buyer/SPD.
- 10.4.8 If Buyer fails to pay undisputed Monthly Bill or Supplementary Bill or a part thereof within and including the Due Date, then, subject to Article 10.4.6 & 10.5.2, the SPD may draw upon the Letter of Credit, and accordingly the bank shall pay without any reference or instructions from Buyer, an amount equal to such Monthly Bill or Supplementary Bill or part thereof, in accordance with Article 10.4.3 above, by presenting to the scheduled bank issuing the Letter of Credit, the following documents:
- i) a copy of the Monthly Bill or Supplementary Bill which has remained unpaid to SPD and;
 - ii) a certificate from the SPD to the effect that the bill at item (i) above, or specified part thereof, is in accordance with the Agreement and has remained unpaid beyond the Due Date;

10.5 Disputed Bill

- 10.5.1 If the Buyer does not dispute a Monthly Bill or a Supplementary Bill raised by the SPD within fifteen (15) days of receiving such Bill shall be taken as conclusive.
- 10.5.2 If the Buyer disputes the amount payable under a Monthly Bill or a Supplementary Bill, as the case may be, it shall pay 50% of the invoice amount and it shall within fifteen (15) days of receiving such Bill, issue a notice (the "Bill Dispute Notice") to the invoicing Party setting out:
- i) the details of the disputed amount;

BUYER-SPD PPA

- ii) its estimate of what the correct amount should be; and
- iii) all written material in support of its claim.

10.5.3 If the SPD agrees to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.5.2, the SPD shall revise such Bill and present along with the next Monthly Bill. In such a case excess amount shall be refunded along with interest at the same rate as Late Payment Surcharge, which shall be applied from the date on which such excess payment was made by the disputing Party to the invoicing Party and up to and including the date on which such payment has been received as refund.

10.5.4 If the SPD does not agree to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.5.2, it shall, within fifteen (15) days of receiving the Bill Dispute Notice, furnish a notice (Bill Disagreement Notice) to the Buyer providing:

- i) reasons for its disagreement;
- ii) its estimate of what the correct amount should be; and
- iii) all written material in support of its counter-claim.

10.5.5 Upon receipt of the Bill Disagreement Notice by the Buyer under Article 10.5.4, authorized representative(s) or a director of the board of directors/ member of board of the Buyer and SPD shall meet and make best endeavours to amicably resolve such dispute within fifteen (15) days of receipt of the Bill Disagreement Notice.

10.5.6 If the Parties do not amicably resolve the Dispute within fifteen (15) days of receipt of Bill Disagreement Notice pursuant to Article 10.5.4, the matter shall be referred to Dispute resolution in accordance with Article 16.

10.5.7 For the avoidance of doubt, it is clarified the despite a Dispute regarding an invoice, MAHAGENCO shall, without prejudice to its right to Dispute, be under an obligation to make payment of 50% of the invoice amount in the Monthly Bill.

10.6 Quarterly and Annual Reconciliation

10.6.1 The Parties acknowledge that all payments made against Monthly Bills and Supplementary Bills shall be subject to quarterly reconciliation within 30

BUYER-SPD PPA

days of the end of the quarter at the beginning of the following quarter of each Contract Year and annual reconciliation at the end of each Contract Year within 30 days to take into account the Energy Accounts, Tariff adjustment payments, Tariff Rebate, Late Payment Surcharge, or any other reasonable circumstance provided under this Agreement.

The Parties acknowledge that the SPD shall produce a certificate from the SPPD at the end of each Contract Year towards payments made by SPD to SPPD towards annual O&M charges of Solar Park facilities.

10.6.2 The Parties, therefore, agree that as soon as all such data in respect of any quarter of a Contract Year or a full Contract Year as the case may be has been finally verified and adjusted, the SPD and Buyer shall jointly sign such reconciliation statement. Within fifteen (15) days of signing of a reconciliation statement, the SPD shall make appropriate adjustments in the next Monthly Bill. Late Payment Surcharge/ interest shall be payable in such a case from the date on which such payment had been made to the invoicing Party or the date on which any payment was originally due, as may be applicable. Any Dispute with regard to the above reconciliation shall be dealt with in accordance with the provisions of Article 16.

10.7 *Payment of Supplementary Bill*

10.7.1 SPD may raise a "Supplementary Bill" for payment on account of:

- i) Adjustments required by the Energy Accounts (if applicable); or
- ii) Change in Law as provided in Article 12, or
- iii) Payments under Article 4.10 and such Supplementary Bill, which shall be paid by MAHAGENCO only after receiving the same form the Buying Utility and such Supplementary Bill shall be paid by the other Party.

10.7.2 Buyer shall remit all amounts due under a Supplementary Bill raised by the SPD to the SPD's Designated Account by the Due Date, except open access charges, SLDC/RLDC or scheduling charges and transmission charges (if applicable) and payment under Article 4.10 subject to Article 10.7.1(iii) above. For Supplementary Bill on account of adjustment required by energy account, Rebate as applicable to Monthly Bills pursuant to Article 10.3.5 shall equally apply. Payment will be made after realization of the same from the Buying Utility. No surcharge will be applicable other than that on the monthly energy payment and associated debit and credit note.

10.7.3 In the event of delay in payment of a Supplementary Bill by either Party beyond its Due Date, a Late Payment Surcharge shall be payable at the same terms applicable to the Monthly Bill in Article 10.3.3.

ARTICLE 11: FORCE MAJEURE

11.1 *Definitions*

11.1.1 In this Article, the following terms shall have the following meanings:

11.2 *Affected Party*

11.2.1 An affected Party means Buyer or the SPD whose performance has been affected by an event of Force Majeure.

11.3 *Force Majeure*

11.3.1 A 'Force Majeure' means any event or circumstance or combination of events those stated below that wholly or partly prevents or unavoidably delays an Affected Party in the performance of its obligations under this Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the Affected Party and could not have been avoided if the Affected Party had taken reasonable care or complied with Prudent Utility Practices:

- a) Act of God, including, but not limited to lightning, drought, fire and explosion (to the extent originating from a source external to the site), earthquake, volcanic eruption, landslide, flood, cyclone, typhoon or tornado if and only if it is declared / notified by the competent state / central authority / agency (as applicable);
- b) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action if and only if it is declared / notified by the competent state / central authority / agency (as applicable); or
- c) Radioactive contamination or ionising radiation originating from a source in India or resulting from another Force Majeure Event mentioned above excluding circumstances where the source or cause of contamination or radiation is brought or has been brought into or near the Power Project by the Affected Party or those employed or engaged by the Affected Party.

- d) An event of Force Majeure identified under Buyer-Buying Entity(ies) PSA, thereby affecting delivery of power from SPD to Buying Entity(ies).

11.4 Force Majeure Exclusions

11.4.1 Force Majeure shall not include (i) any event or circumstance which is within the reasonable control of the Parties and (ii) the following conditions, except to the extent that they are consequences of an event of Force Majeure:

- a. Unavailability, late delivery, or changes in cost of the plant, machinery, equipment, materials, spare parts or consumables for the Power Project;
- b. Delay in the performance of any contractor, sub-contractor or their agents ;
- c. Non-performance resulting from normal wear and tear typically experienced in power generation materials and equipment;
- d. Strikes at the facilities of the Affected Party;
- e. Insufficiency of finances or funds or the agreement becoming onerous to perform; and
- f. Non-performance caused by, or connected with, the Affected Party's:
 - i. Negligent or intentional acts, errors or omissions;
 - ii. Failure to comply with an Indian Law; or
 - iii. Breach of, or default under this Agreement.

11.5 Notification of Force Majeure Event

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

11.5.2 Provided that such notice shall be a pre-condition to the Affected Party's entitlement to claim relief under this Agreement. Such notice shall include full

particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed. The Affected Party shall give the other Party regular (and not less than monthly) reports on the progress of those remedial measures and such other information as the other Party may reasonably request about the Force Majeure Event.

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

11.6 *Duty to Perform and Duty to Mitigate*

11.6.1 To the extent not prevented by a Force Majeure Event pursuant to Article 11.3, the Affected Party shall continue to perform its obligations pursuant to this Agreement. The Affected Party shall use its reasonable efforts to mitigate the effect of any Force Majeure Event as soon as practicable.

11.7 *Available Relief for a Force Majeure Event*

11.7.1 Subject to this Article 11:

- (a) no Party shall be in breach of its obligations pursuant to this Agreement except to the extent that the performance of its obligations was prevented, hindered or delayed due to a Force Majeure Event;
- (b) every Party shall be entitled to claim relief in relation to a Force Majeure Event in regard to its obligations, including but not limited to those specified under Article 4.5;
- (c) For avoidance of doubt, neither Party's obligation to make payments of money due and payable prior to occurrence of Force Majeure events under this Agreement shall be suspended or excused due to the occurrence of a Force Majeure Event in respect of such Party.
- (d) Provided that no payments shall be made by either Party affected by a Force Majeure Event for the period of such event on account of its inability to perform its obligations due to such Force Majeure Event.

ARTICLE 12: CHANGE IN LAW

12.1 *Definitions*

In this Article 12, the term Change in Law shall refer to the occurrence of any of the following events pertaining to this project only after the last date of the bid submission, including

- (i) the enactment of any new law; or
- (ii) an amendment, modification or repeal of an existing law; or
- (iii) the requirement to obtain a new consent, permit or license; or
- (iv) any modification to the prevailing conditions prescribed for obtaining an consent, permit or license, not owing to any default of the Solar Power Generator; or
- (v) any change in the rates of any Taxes including any duties and cess or introduction of any new tax (excluding however the extension of the existing tax at the same rate on the expiry of the current period) made applicable for setting up the solar power project and supply of power from the Solar Power project by the SPD which have a direct effect on the Project.

However, Change in Law shall not include (i) any change in taxes on corporate income or (ii) any change in any withholding tax on income or dividends distributed to the shareholders of the SPD, or (iii) any change on account of regulatory measures by the Appropriate Commission.

In the event a Change in Law results in any adverse financial loss/ gain to the Solar Power Developer then, in order to ensure that the Solar Power Developer is placed in the same financial position as it would have been had it not been for the occurrence of the Change in Law, the Solar Power Developer/ Procurer shall be entitled to compensation by the other party, as the case may be, subject to the condition that the quantum and mechanism of compensation payment shall be determined and shall be effective from such date as may be decided by the Appropriate Commission.

In the event of any decrease in the recurring/ nonrecurring expenditure by the SPD or any income to the SPD on account of any of the events as indicated above, SPD shall file an application to the Appropriate Commission no later than sixty (60) days from the occurrence of such event, for seeking approval of Change in Law. In the event of the SPD failing to comply with the above requirement, in case of any gain to the SPD, MAHAGENCO shall withhold the monthly tariff payments on immediate basis, until compliance of the above requirement by the SPD.

12.2 *Relief for Change in Law*

12.2.1 The aggrieved Party shall be required to approach the Appropriate Commission for seeking approval of Change in Law.

12.2.2 The decision of the Appropriate Commission to acknowledge a Change in Law and the date from which it will become effective, provide relief for the same, shall be final and governing on both the Parties.

ARTICLE 13: EVENTS OF DEFAULT AND TERMINATION

13.1 *SPD Event of Default*

13.1.1 The occurrence and/or continuation of any of the following events, unless any such event occurs as a result of a Force Majeure Event or a breach by Buyer or Buying Entity of its obligations under this Agreement, shall constitute an SPD Event of Default:

(i) the failure to commence supply of power to Buyer up to the Contracted Capacity, by the end of the period specified in Article 4, or failure to continue supply of Contracted Capacity to Buyer after Commercial Operation Date throughout the term of this Agreement, or

if

a) the SPD assigns, mortgages or charges or purports to assign, mortgage or charge any of its assets or rights related to the Power Project in contravention of the provisions of this Agreement; or

b) the SPD transfers or novates any of its rights and/ or obligations under this agreement, in a manner contrary to the provisions of this Agreement; except where such transfer

- is in pursuance of a Law; and does not affect the ability of the transferee to perform, and such transferee has the financial capability to perform, its obligations under this Agreement or

- is to a transferee who assumes such obligations under this Agreement and the Agreement remains effective with respect to the transferee;

(ii) if (a) the SPD becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of thirty (30) days, or (b) any winding up or bankruptcy or insolvency order is passed against the SPD, or (c) the SPD goes into liquidation or dissolution or has a receiver or any similar officer appointed over all or substantially all of its assets or official liquidator is appointed to manage its affairs, pursuant to Law, provided that a dissolution or liquidation of the SPD will not be a SPD Event of Default if such dissolution or liquidation is for the purpose of a merger, consolidation or reorganization and where the

BUYER-SPD PPA

resulting company retains creditworthiness similar to the SPD and expressly assumes all obligations of the SPD under this Agreement and is in a position to perform them; or

- (iii) the SPD repudiates this Agreement and does not rectify such breach within a period of thirty (30) days from a notice from Buyer in this regard; or
- (iv) except where due to any Buyer's failure to comply with its material obligations, the SPD is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the SPD within thirty (30) days of receipt of first notice in this regard given by Buyer.
- (v) change in controlling shareholding before the specified time frame as mentioned in Article 4.1.1 of this Agreement; or
- (vi) occurrence of any other event which is specified in this Agreement to be a material breach/ default of the SPD.
- (vii) except where due to any Buyer's failure to comply with its material obligations, the SPD is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the SPD within thirty (30) days of receipt of first notice in this regard given by Buyer.

13.2 Buyer Event of Default

13.2.1 The occurrence and the continuation of any of the following events, unless any such event occurs as a result of a Force Majeure Event or a breach by the SPD of its obligations under this Agreement, shall constitute the Event of Default on the part of defaulting Buyer:

- (i) Buyer fails to pay (with respect to a Monthly Bill or a Supplementary Bill), subject to Article 10.5, for a period of ninety (90) days after the Due Date and the SPD is unable to recover the amount outstanding to the SPD through the Letter of Credit,
- (ii) Buyer repudiates this Agreement and does not rectify such breach even within a period of sixty (60) days from a notice from the SPD in this regard; or
- (iii) except where due to any SPD's failure to comply with its obligations, Buyer is in material breach of any of its obligations pursuant to this Agreement, and such material breach is not rectified by Buyer within

BUYER-SPD PPA

sixty (60) days of receipt of notice in this regard from the SPD to Buyer;
or if

- Buyer becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of sixty (60) days, or
 - any winding up or bankruptcy or insolvency order is passed against Buyer, or
 - Buyer goes into liquidation or dissolution or a receiver or any similar officer is appointed over all or substantially all of its assets or official liquidator is appointed to manage its affairs, pursuant to Law, provided that it shall not constitute a Buyer Event of Default, where such dissolution or liquidation of Buyer or Buyer is for the purpose of a merger, consolidation or reorganization and where the resulting entity has the financial standing to perform its obligations under this Agreement and has creditworthiness similar to Buyer and expressly assumes all obligations of Buyer and is in a position to perform them; or;
- (iv) If Buying Entity is subject to any of the above defaults and MAHAGENCO does not designate another or other Buying Entity for purchase of power.
- (v) Occurrence of any other event which is specified in this Agreement to be a material breach or default of Buyer.

13.3 Procedure for cases of SPD Event of Default

13.3.1 Upon the occurrence and continuation of any SPD Event of Default under Article 13.1, Buyer shall have the right to deliver to the SPD, with a copy to the representative of the lenders to the SPD with whom the SPD has executed the Financing Agreements, a notice stating its intention to terminate this Agreement (Buyer Preliminary Default Notice), which shall specify in reasonable detail, the circumstances giving rise to the issue of such notice.

13.3.2 Following the issue of a MAHAGENCO Preliminary Default Notice, the Consultation Period of ninety (90) days or such longer period as the Parties may agree, shall apply and it shall be the responsibility of the Parties to discuss as to

BUYER-SPD PPA

what steps shall be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.

13.3.3 During the Consultation Period, the Parties shall continue to perform their respective obligations under this Agreement.

13.3.4 Within a period of seven (7) days following the expiry of the Consultation Period unless the Parties shall have otherwise agreed to the contrary or the SPD Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, MAHAGENCO may terminate this Agreement by giving a written Termination Notice of sixty (60) days to the SPD.

13.3.5 Subject to the terms of this Agreement, upon occurrence of a SPD Event of Default under this Agreement, the lenders in concurrence with the Buying Entity and MAHAGENCO, under intimation to the SPIA, may exercise their rights, if any, under Financing Agreements, to seek substitution of the SPD by a selectee for the residual period of the Agreement, for the purpose of securing the payments of the total debt amount from the SPD and performing the obligations of the SPD. However, in the event the lenders are unable to substitute the defaulting SPD within the stipulated period, MAHAGENCO may terminate the PPA and the Buying Entity may acquire the Project assets for an amount equivalent to 90% of the debt due or less as mutually agreed, failing which, the lenders may exercise their mortgage rights and liquidate the Project assets.

Provided that any substitution under this Agreement can only be made with the prior consent of MAHAGENCO including the condition that the selectee meets the eligibility requirements of Request for Selection (RfS) issued by MAHAGENCO and accepts the terms and conditions of this Agreement, and Implementation and Support Agreement and Land Lease Agreement signed with the SPIA.

13.3.6 The lenders in concurrence with the Buying Utility and MAHAGENCO, under intimation to the SPIA, may seek to exercise right of substitution under Article 13.3.5 by an amendment or novation of the PPA in favour of the selectee. The SPD shall cooperate with MAHAGENCO and SPIA to carry out such substitution and shall have the duty and obligation to continue to operate the Power Project in

BUYER-SPD PPA

accordance with this PPA till such time as the substitution is finalized. In the event of Change in Shareholding/Substitution of Promoters triggered by the Financial Institutions leading to signing of fresh PPA with a new entity, an amount of Rs. 10 Lakh per Project +18% GST per transaction as facilitation fee (non-refundable) shall be deposited by the SPD to MAHAGENCO.

13.3.7 In the event the lenders are unable to substitute the defaulting SPD within the stipulated period, MAHAGENCO may terminate the PPA and the Buying Utility may acquire the Project assets for an amount equivalent to 90% of the debt due, failing which, the lenders may exercise their mortgage rights and liquidate the Project assets.

13.4 Procedure for cases of Buyer Event of Default

13.4.1 Upon the occurrence and continuation of any Buyer Event of Default specified in Article 13.2, the SPD shall have the right to deliver to Buyer, a SPD Preliminary Default Notice, which notice shall specify in reasonable detail the circumstances giving rise to its issue.

13.4.2 Following the issue of a SPD Preliminary Default Notice, the Consultation Period of ninety (90) days or such longer period as the Parties may agree, shall apply and 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 Event of Default having regard to all the circumstances.

13.4.3 During the Consultation Period, the Parties shall continue to perform their respective obligations under this Agreement.

13.4.4 After a period of two hundred ten (210) days following the expiry of the Consultation Period and unless the Parties shall have otherwise agreed to the contrary or MAHAGENCO Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, MAHAGENCO under intimation to the Buying Entity and the SPD shall, subject to the prior consent of the SPD, novate its part of the PPA to any third party, including its Affiliates within the stipulated period. In the event the aforesaid novation is not acceptable to the SPD, or if no offer of novation is made by MAHAGENCO within the stipulated

BUYER-SPD PPA

period, then the SPD may terminate the PPA and at its discretion require Buying Entity to either (i) takeover the Project assets by making a payment of the termination compensation equivalent to the amount of the debt due and 150% (one hundred and fifty per cent) of the adjusted equity or, (ii) pay to the SPD, damages, equivalent to 6 (six) months, or balance PPA period whichever is less, of charges for its contracted capacity, with the Project assets being retained by the SPD.

Provided further that at the end of three (3) months period from the period mentioned in this Article 13.4.4, this Agreement may be terminated by the SPD. In the event of termination of PPA, any damages or charges payable to the STU/CTU, for the connectivity of the plant, shall be borne by the Buying Entity.

13.5 *Termination due to Force Majeure*

13.5.1 If the Force Majeure Event or its effects continue to be present beyond a period as specified in Article 4.5.3, either Party shall have the right to cause termination of the Agreement. In such an event this Agreement shall terminate on the date of such Termination Notice without any further liability to either Party from the date of such termination.

ARTICLE 14: LIABILITY AND INDEMNIFICATION

14.1 Indemnity

14.1.1 The SPD shall indemnify, defend and hold Buyer harmless against:

- a) any and all third party claims against Buyer for any loss of or damage to property of such third party, or death or injury to such third party, arising out of a breach by the SPD of any of its obligations under this Agreement; and
- b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest actually suffered or incurred by Buyer from third party claims arising by reason of a breach by the SPD of any of its obligations under this Agreement, (provided that this Article 14 shall not apply to such breaches by the SPD, for which specific remedies have been provided for under this Agreement).

14.1.2 Buyer shall cause the Buying Entity to indemnify, defend and hold the SPD harmless against:

- a) any and all third party claims against the SPD, for any loss of or damage to property of such third party, or death or injury to such third party, arising out of a breach by Buying Entity of any of their obligations under this Agreement; and
- b) any and all losses, damages, costs and expenses including legal costs, fines, penalties and interest ('Indemnifiable Losses') actually suffered or incurred by the SPD from third party claims arising by reason of a breach by Buying Entity of any of its obligations. Buyer shall incorporate appropriate covenants in the PSA for the above obligations of Buying Entity. In so far as indemnity to SPD is concerned, Buying Entity shall be the indemnifying party and not Buyer.

14.2 Procedure for claiming Indemnity

14.2.1 Third party claims

- a. Where the Indemnified Party is entitled to indemnification from the Indemnifying Party pursuant to Article 14.1.1(a) or 14.1.2(a), the Indemnified Party shall promptly notify the Indemnifying Party of such claim referred to in Article 14.1.1(a) or 14.1.2(a) in respect of which it is entitled to be indemnified. Such notice shall be given as soon as reasonably practicable after the Indemnified

Party becomes aware of such claim. The Indemnifying Party shall be liable to settle the indemnification claim within thirty (30) days of receipt of the above notice. Provided however that, if:

- i) the Parties choose to refer the dispute before the Arbitrator in accordance with Article 16.3.2; and
- ii) the claim amount is not required to be paid/ deposited to such third party pending the resolution of the Dispute,

the Indemnifying Party shall become liable to pay the claim amount to the Indemnified Party or to the third party, as the case may be, promptly following the resolution of the Dispute, if such Dispute is not settled in favour of the Indemnified Party.

- b. The Indemnified Party may contest the claim by referring to the Arbitrator for which it is entitled to be Indemnified under Article 14.1.1(a) or 14.1.2(a) and the Indemnifying Party shall reimburse to the Indemnified Party all reasonable costs and expenses incurred by the Indemnified party. However, such Indemnified Party shall not settle or compromise such claim without first getting the consent of the Indemnifying Party, which consent shall not be unreasonably withheld or delayed.

An Indemnifying Party may, at its own expense, assume control of the defence of any proceedings brought against the Indemnified Party if it acknowledges its obligation to indemnify such Indemnified Party, gives such Indemnified Party prompt notice of its intention to assume control of the defence, and employs an independent legal counsel at its own cost that is reasonably satisfactory to the Indemnified Party.

14.3 *Indemnifiable Losses*

- 14.3.1 Where an Indemnified Party is entitled to Indemnifiable Losses from the Indemnifying Party pursuant to Article 14.1.1(b) or 14.1.2(b), the Indemnified Party shall promptly notify the Indemnifying Party of the Indemnifiable Losses actually incurred by the Indemnified Party. The Indemnifiable Losses shall be reimbursed by the Indemnifying Party within thirty (30) days of receipt of the notice seeking Indemnifiable Losses by the Indemnified Party. In case of non-

payment of such losses after a valid notice under this Article 14.3, such event shall constitute a payment default under Article 13.

14.4 *Limitation on Liability*

14.4.1 Except as expressly provided in this Agreement, neither the SPD nor Buyer nor Buying Entity nor its/ their respective officers, directors, agents, employees or affiliates (or their officers, directors, agents or employees), shall be liable or responsible to the other Party or its affiliates, officers, directors, agents, employees, successors or permitted assigns or their respective insurers for incidental, indirect or consequential damages, connected with or resulting from performance or non-performance of this Agreement, or anything done in connection herewith, including claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under this Agreement), any increased expense of, reduction in or loss of power generation or equipment used therefore, irrespective of whether such claims are based upon breach of warranty, tort (including negligence, whether of Buying Entity(ies) , the SPD or others), strict liability, contract, breach of statutory duty, operation of law or otherwise.

14.4.2 Buyer shall have no recourse against any officer, director or shareholder of the SPD or any Affiliate of the SPD or any of its officers, directors or shareholders for such claims excluded under this Article. The SPD shall have no recourse against any officer, director or shareholder of Buyer or Buying Entity(ies) , or any affiliate of Buyer or any of its officers, directors or shareholders for such claims excluded under this Article.

14.5 *Buyer's Liability*

14.5.1 Notwithstanding anything to the contrary contained in this Agreement, the Parties acknowledge and accept that the Buyer is an Intermediary Company to purchase and re-sell the electricity to the Buying Utility(ies) to enable them to fulfil the Renewable Purchase Obligations (RPO) and, therefore, the performance of the obligations of the Buyer under this Agreement shall be subject to the ability of the Buyer to enforce the corresponding obligations assumed by the Buying Utility on re-sale under the Power Sale Agreement to be entered into by the Buying Utility with MAHAGENCO. MAHAGENCO shall discharge the tariff payment obligation in terms of the provision of this Agreement.

BUYER-SPD PPA

14.5.2 The parties agree that in respect of the obligations other than the tariff payment obligation specifically mentioned herein above, in the event the SPD has any claim against the Buyer in regard to the performance of any obligation of the Buyer under this Agreement or enforcement of any right of the SPD against the Buyer under this Agreement, the same shall be subject to the ability of the Buyer to enforce the corresponding obligations assumed by the Buying Utility under the Power Sale Agreement to be entered into between the MAHAGENCO and the Buying Utility on re-sale on mutatis mutandis basis and not otherwise.

14.6 *Duty to Mitigate*

14.6.1 The Parties shall endeavour to take all reasonable steps so as mitigate any loss or damage which has occurred under this Article 14.

ARTICLE 15: ASSIGNMENTS AND CHARGES

15.1 *Assignments*

This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns. This Agreement shall not be assigned by any Party, except to the Project Lenders or Lender's Representative as security for their debt under the Financing Agreements, other than by mutual consent between the Parties to be evidenced in writing. Such assignment shall be agreed to by MAHAGENCO subject to the compliance of provisions contained in this Agreement and more specifically to the provisions of Article 4.1.1 of this Agreement. In no case, such assignment shall be permissible prior to the declaration of COD.

Provided that, MAHAGENCO shall permit assignment of any of SPD's rights and obligations under this Agreement in favour of the lenders to the SPD, if required under the Financing Agreements.

Provided that, such consent shall not be withheld if Buyer seeks to transfer to any transferee all of its rights and obligations under this Agreement.

The enforcement of the rights and obligation between the SPD and the Buying Utility(ies) provided in this Agreement and in the PSA shall not be treated as an assignment but an enforcement of the terms agreed under this Agreement.

Provided further that any successor(s) or permitted assign(s) identified after mutual agreement between the Parties may be required to execute a new agreement on the same terms and conditions as are included in this Agreement.

An amount of Rs. 5 Lakh per Transaction as Facilitation Fee (non-refundable) shall be deposited by the SPD to Buyer. Provided further that, such consent shall not be withheld by the SPD if Buyer seeks to transfer to any affiliate all of its rights and obligations under this Agreement.

In the event of Change in Shareholding/Substitution of Promoters triggered by the Financial Institutions leading to signing of fresh PPA with a New Entity, an amount of Rs. 10 Lakh per Transaction as Facilitation Fee (non-refundable) shall be deposited by the SPD to MAHAGENCO.

15.2 *Permitted Charges*

15.2.1 SPD shall not create or permit to subsist any encumbrance over all or any of its rights and benefits under this Agreement, other than as set forth in Article 15.1 and the Guidelines.

ARTICLE 16: GOVERNING LAW AND DISPUTE RESOLUTION

16.1 *Governing Law*

16.1.1 This Agreement shall be governed by and construed in accordance with the Laws of India. Any legal proceedings in respect of any matters, claims or disputes under this Agreement shall be under the jurisdiction of appropriate courts in Delhi.

16.2 *Amicable Settlement and Dispute Resolution*

16.2.1 *Amicable Settlement*

- i. Either Party is entitled to raise any claim, dispute or difference of whatever nature arising under, out of or in connection with this Agreement (“Dispute”) by giving a written notice (Dispute Notice) to the other Party, which shall contain:
 - (a) a description of the Dispute;
 - (b) the grounds for such Dispute; and
 - (c) all written material in support of its claim.

- ii. The other Party shall, within thirty (30) days of issue of Dispute Notice issued under Article 16.2.1(i), furnish:
 - (a) counter-claim and defences, if any, regarding the Dispute;
and
 - (b) all written material in support of its defences and counter-claim.

- iii. Within thirty (30) days of issue of Dispute Notice by any Party pursuant to Article 16
 - (i) if the other Party does not furnish any counter claim or defence under Article 16.
 - (ii) or thirty (30) days from the date of furnishing counter claims or defence by the other Party, both the Parties to the Dispute shall meet to settle such Dispute amicably. If the Parties fail to resolve the Dispute amicably within thirty (30) days from the later of the dates mentioned in this Article 16.2.1.
 - (iii) the Dispute shall be referred for dispute resolution in accordance with Article 16.3.

16.3 *Dispute Resolution*

16.3.1 Dispute Resolution by the Appropriate Commission

- i) Where any Dispute or differences arise in relation to this agreement of any nature whatsoever including the construction, interpretation or implementation of the provisions of this agreement as well claim made by any Party for any change in or determination of the Tariff or any matter related to Tariff or claims made by any Party which partly or wholly relate to any change in the Tariff or determination of any of such claims could result in change in the Tariff, and relates to any matter agreed to be referred to the Appropriate Commission, shall be submitted to adjudication by the Appropriate Commission. Appeal against the decisions of the Appropriate Commission shall be made only as per the provisions of the Electricity Act, 2003, as amended from time to time.
- ii) Buyer shall be entitled to co-opt the Buying Entity and/or the lenders (if any) as a supporting party in such proceedings before the Appropriate Commission.

16.3.2 Dispute Resolution through Arbitration

- i) If the Dispute arising as per Article 16.2.1 is not amicably resolved & such dispute is not covered in Article 16.3.1(i), such Dispute shall be resolved by arbitration under the provisions of the Electricity Act, 2003 (as amended from time to time) as under:

Proceedings as well as appointment of the arbitrator(s) shall be carried out by the Appropriate Commissions under the Electricity Act 2003 as amended from time to time. As stipulated by the said Electricity Act 2003, the said arbitration will take place as per the provisions of the Arbitration and Conciliation Act 1996 as amended from time to time.

- ii) The place of arbitration shall be Mumbai. The language of the arbitration shall be English.
- iii) The Arbitration Tribunal's award shall be substantiated in writing. The Arbitration Tribunal shall also decide on the costs of the arbitration proceedings and the allocation thereof.
- iv) The provisions of this Article shall survive the termination of this PPA for any reason whatsoever.
- v) The award shall be of majority decision.
- vi) Buyer shall be entitled to co-opt Buying Entity and / or the lenders (if any) as a supporting party in such arbitration proceedings.

16.4 *Parties to Perform Obligations*

16.4.1 Notwithstanding the existence of any Dispute and difference referred to the Appropriate Commission or the Arbitration Tribunal as provided in Article 16.3 and save as the Appropriate Commission or the Arbitration Tribunal may otherwise direct by a final or interim order, the Parties hereto shall continue to perform their respective obligations (which are not in dispute) under this Agreement.

ARTICLE 17: MISCELLANEOUS PROVISIONS

17.1 *Amendment*

17.1.1 This Agreement may only be amended or supplemented by a written agreement between the Parties.

17.2 *Third Party Beneficiaries*

17.2.1 This Agreement is solely for the benefit of the Parties and their respective successors and permitted assigns and shall not be construed as creating any duty, standard of care or any liability to, any person not a party to this Agreement.

17.3 *Waiver*

17.3.1 No waiver by either Party of any default or breach by the other Party in the performance of any of the provisions of this Agreement shall be effective unless in writing duly executed by an authorised representative of such Party.

17.3.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement nor time or other indulgence granted by one Party to the other Parties shall act as a waiver of such breach or acceptance of any variation or the relinquishment of any such right or any other right under this Agreement, which shall remain in full force and effect.

17.4 *Confidentiality*

17.4.1 The Parties undertake to hold in confidence this Agreement and not to disclose the terms and conditions of the transaction contemplated hereby to third parties, except:

- a) to their professional advisors;
- b) to their officers, contractors, employees, agents or representatives, financiers, who need to have access to such information for the proper performance of their activities; or
- c) disclosures required under Law, without the prior written consent of the other Party.

17.5 *Severability*

17.5.1 The invalidity or unenforceability, for any reason, of any part of this Agreement

BUYER-SPD PPA

shall not prejudice or affect the validity or enforceability of the remainder of this Agreement, unless the part held invalid or unenforceable is fundamental to this Agreement.

17.6 Notices

17.6.1 All notices or other communications which are required to be given under this Agreement shall be in writing and in the English language.

17.6.2 If to the SPD, all notices or other communications which are required must be delivered personally or by registered post or facsimile or any other method duly acknowledged to the addresses below:

Address :
Attention :
Email :
Fax. No. :
Telephone No.:

17.6.3 If to Buyer, all notices or communications must be delivered personally or by registered post or facsimile or any other mode duly acknowledged to the address(es) below:

(i) Address : 3rd floor, Prakshgad, A. K. Marg, Bandra (E),
Mumbai-400051
Attention : Executive Director (Ash & Solar)
Email : tdgen@mahagenco.in
Telephone No : 26472426 Intercom- 2070

17.6.4 All notices or communications given by facsimile shall be confirmed by sending a copy of the same via post office in an envelope properly addressed to the appropriate Party for delivery by registered mail. All notices shall be deemed validly delivered upon receipt evidenced by an acknowledgement of the recipient, unless the Party delivering the notice can prove in case of delivery through the registered post that the recipient refused to acknowledge the receipt of the notice despite efforts of the postal authorities.

17.6.5 Any Party may by notice of at least fifteen (15) days to the other Party change the address and/or addresses to which such notices and communications to it are to be delivered or mailed.

17.7 *Language*

17.7.1 All agreements, correspondence and communications between the Parties relating to this Agreement and all other documentation to be prepared and supplied under the Agreement shall be written in English, and the Agreement shall be construed and interpreted in accordance with English language.

17.7.2 If any of the agreements, correspondence, communications or documents are prepared in any language other than English, the English translation of such agreements, correspondence, communications or documents shall prevail in matters of interpretation.

17.8 *Restriction of Shareholders / Owners' Liability*

17.8.1 Parties expressly agree and acknowledge that none of the shareholders of the Parties hereto shall be liable to the other Parties for any of the contractual obligations of the concerned Party under this Agreement. Further, the financial liabilities of the shareholder/s of each Party to this Agreement, shall be restricted to the extent provided in the Indian Companies Act, 2013.

17.9 *Taxes and Duties*

17.9.1 The SPD shall bear and promptly pay all statutory taxes, duties, levies and cess, assessed/ levied on the SPD, contractors or their employees that are required to be paid by the SPD as per the Law in relation to the execution of the Agreement and for supplying power as per the terms of this Agreement.

17.9.2 Buyer shall be indemnified and held harmless by the SPD against any claims that may be made against Buyer in relation to the matters set out in Article 17.9.1.

17.9.3 Buyer shall not be liable for any payment of, taxes, duties, levies, cess whatsoever for discharging any obligation of the SPD by Buyer on behalf of SPD.

17.10 *Independent Entity*

17.10.1 The SPD shall be an independent entity performing its obligations pursuant to the Agreement.

17.10.2 Subject to the provisions of the Agreement, the SPD shall be solely responsible for the manner in which its obligations under this Agreement are to be

performed. All employees and representatives of the SPD or contractors engaged by the SPD in connection with the performance of the Agreement shall be under the complete control of the SPD and shall not be deemed to be employees, representatives, contractors of Buyer and nothing contained in the Agreement or in any agreement or contract awarded by the SPD shall be construed to create any contractual relationship between any such employees, representatives or contractors and Buyer.

17.11 *Compliance with Law*

Despite anything contained in this Agreement but without prejudice to this Article, if any provision of this Agreement shall be in deviation or inconsistent with or repugnant to the provisions contained in the Electricity Act, 2003, or any rules and regulations made there under, such provision of this Agreement shall be deemed to be amended to the extent required to bring it into compliance with the aforesaid relevant provisions as amended from time to time.

17.12 The duly executed Power Sale Agreement between MAHAGENCO and Buying entity(s) as attached to this Agreement shall be read along with this Agreement as a composite back to back agreement for Generation and supply of electricity to the Buying entity(s), particularly, to fulfil the Renewable Purchase Obligations under the provisions of the Electricity Act, 2003 and the Regulations notified thereunder.

17.13 *Breach of Obligations*

The Parties acknowledge that a breach of any of the obligations contained herein would result in injuries. The Parties further acknowledge that the amount of the liquidated damages or the method of calculating the liquidated damages specified in this Agreement is a genuine and reasonable pre-estimate of the damages that may be suffered by the non-defaulting party in each case specified under this Agreement.

BUYER-SPD PPA

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

For and on behalf of
[MAHAGENCO]

For and on behalf of
[SPD]

Name, Designation and Address

Name, Designation and Address

Signature with seal

Signature with seal

Witness:

Witness:

1.

1.

2.

2.

SCHEDULE 1:

FORMAT OF THE PERFORMANCE BANK GUARANTEE

(To be on non-judicial stamp paper of appropriate value as per Stamp Act relevant to place of execution.)

In consideration of the ----- [Insert name of the Bidder] (hereinafter referred to as selected Solar Power Developer') submitting the response to RfS inter alia for selection of the Project of the capacity of MW, at[Insert name of the place] under[Insert name of the RfS], for supply of power there from on long term basis, in response to the RfS dated..... issued by Maharashtra State Power Generation Company Ltd. (hereinafter referred to as MAHAGENCO) and MAHAGENCO considering such response to the RfS of[insert the name of the selected Solar Power Developer] (which expression shall unless repugnant to the context or meaning thereof include its executers, administrators, successors and assignees) and selecting the Solar Power Project of the Solar Power Developer and issuing Letter of Intent No ----- to (Insert Name of selected Solar Power Developer) as per terms of RfS and the same having been accepted by the selected SPD resulting in a Power Purchase Agreement (PPA) to be entered into, for purchase of Power [from selected Solar Power Developer or a Project Company, M/s ----- {a Special Purpose Vehicle (SPV) formed for this purpose}, if applicable]. As per the terms of the RfS, the _____ [insert name & address of bank] hereby agrees unequivocally, irrevocably and unconditionally to pay to MAHAGENCO at [Insert Name of the Place from the address of the MAHAGENCO] forthwith on demand in writing from MAHAGENCO or any Officer authorized by it in this behalf, any amount up to and not exceeding Rupees----- [Total Value] only, on behalf of M/s _____ [Insert name of the selected Solar Power Developer / Project Company]

This guarantee shall be valid and binding on this Bank up to and including..... and shall not be terminable by notice or any change in the constitution of the Bank or the term of contract or by any other reasons whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alternations made, given, or agreed with or without our knowledge or consent, by or between parties to the respective agreement.

Our liability under this Guarantee is restricted to Rs. _____ only.
Our Guarantee shall remain in force until..... MAHAGENCO shall be entitled to invoke this Guarantee till

The Guarantor Bank hereby agrees and acknowledges that MAHAGENCO shall have a right to invoke this BANK GUARANTEE in part or in full, as it may deem fit.

BUYER-SPD PPA

The Guarantor Bank hereby expressly agrees that it shall not require any proof in addition to the written demand by MAHAGENCO, made in any format, raised at the above mentioned address of the Guarantor Bank, in order to make the said payment to MAHAGENCO.

The Guarantor Bank shall make payment hereunder on first demand without restriction or conditions and notwithstanding any objection by -----[Insert name of the selected Solar Power Developer / Project Company as applicable] and/or any other person. The Guarantor Bank shall not require MAHAGENCO to justify the invocation of this BANK GUARANTEE, nor shall the Guarantor Bank have any recourse against MAHAGENCO in respect of any payment made hereunder.

This BANK GUARANTEE shall be interpreted in accordance with the laws of India and the courts at Delhi shall have exclusive jurisdiction.

The Guarantor Bank represents that this BANK GUARANTEE has been established in such form and with such content that it is fully enforceable in accordance with its terms as against the Guarantor Bank in the manner provided herein.

This BANK GUARANTEE shall not be affected in any manner by reason of merger, amalgamation, restructuring or any other change in the constitution of the Guarantor Bank.

This BANK GUARANTEE shall be a primary obligation of the Guarantor Bank and accordingly MAHAGENCO shall not be obliged before enforcing this BANK GUARANTEE to take any action in any court or arbitral proceedings against the selected Solar Power Developer / Project Company , to make any claim against or any demand on the selected Solar Power Developer / Project Company or to give any notice to the selected Solar Power Developer / Project Company or to enforce any security held by MAHAGENCO or to exercise, levy or enforce any distress, diligence or other process against the selected Solar Power Developer / Project Company .

The Guarantor Bank acknowledges that this BANK GUARANTEE is not personal to MAHAGENCO and may be assigned, in whole or in part, (whether absolutely or by way of security) by MAHAGENCO to any entity to whom MAHAGENCO is entitled to assign its rights and obligations under the PPA.

Notwithstanding anything contained hereinabove, our liability under this Guarantee is restricted to Rs. _____ (Rs. _____ only) and it shall remain in force until We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only if MAHAGENCO serves upon us a written claim or demand.

Signature _____

Name _____

(Insert Project ID)

BUYER-SPD PPA

Power of Attorney No. _____

For

_____ [Insert Name of the Bank] _____

E-mail ID of the bank:

Banker's Stamp and Full Address.

Dated this ____ day of ____, 20__

Witness:

1.

Signature

Name and Address

2.

Signature

Name and Address

Notes:

1. The Stamp Paper should be in the name of the Executing Bank and of appropriate value.
2. The Performance Bank Guarantee shall be executed by any of the Bank from the List of Banks enclosed.

SCHEDULE 2: List of Banks for Issuance of Performance Bank Guarantee

1. SCHEDULED COMMERCIAL BANKS	2. OTHER PUBLIC SECTOR BANKS
SBI AND ASSOCIATES	IDBI Bank Ltd.
1. State Bank of India	3. FOREIGN BANKS
2. State Bank of Bikaner & Jaipur	1. Bank of America NA
3. State Bank of Hyderabad	2. Bank of Tokyo Mitsubishi UFJ Ltd.
4. State Bank of Indore	3. BNP Paribas
5. State Bank of Mysore	4. Calyon Bank
6. State Bank of Patiala	5. Citi Bank N.A.
7. State Bank of Travancore	6. Deutsche Bank A.G
NATIONALISED BANKS	7. The Hongkong and Shanghai Banking Corpn. Ltd.
1. Allahabad Bank	8. Standard Chartered Bank
2. Andhra Bank	9. Societe Generale
3. Bank of India	10. Barclays Bank
4. Bank of Maharashtra	11. Royal Bank of Scotland
5. Canara Bank	12. Bank of Nova Scotia
6. Central Bank of India	13. Development Bank of Singapore (DBS, Bank Ltd.)
7. Corporation Bank	14. Crédit Agricole Corporate and Investment Bank
8. Dena Bank	4. SCHEDULED PRIVATE BANKS
9. Indian Bank	1. Federal Bank Ltd.
10. Indian Overseas Bank	2. ING Vysya Bank Ltd.
11. Oriental Bank of Commerce	3. Axis Bank Ltd.
12. Punjab National Bank	4. ICICI Bank Ltd.
13. Punjab & Sind Bank	5. HDFC Bank Ltd.
14. Syndicate Bank	6. Yes Bank Ltd.
15. Union Bank of India	7. Kotak Mahindra Bank
16. United Bank of India	8. IndusInd Bank Ltd.
17. UCO Bank	9. Karur Vysya Bank
18. Vijaya Bank	
19. Bank of Baroda	

SCHEDULE 3: COMMISSIONING PROCEDURE:

❖ Capacity of Solar PV Projects:

i) The Project configuration shall be allowed as per the following matrix:

Sr. No.	Solar PV Project Capacity Bid	Minimum DC Arrays Capacity to be installed	Minimum Rated Inverter Capacity*	Maximum AC Capacity Limit at Delivery point

*In case the rated inverter capacity is mentioned in kVA, the IEC test certificate declaring the power factor of the Inverter/PCU at rated power has to be submitted and the power factor shall be multiplied by the kVA rating to calculate the rated capacity of the inverter in kW.

- ii) The SPD shall be required to demonstrate compliances with the “*Technical Requirements for Grid Connected Solar PV Power Plants*” as mentioned in the RfS and Guidelines.
- iii) Higher DC capacity arrays can also be allowed, subject to the condition that the AC capacity limit as mentioned in (i) above for scheduling at the Delivery Point as per Article 4.4 “Right to Contracted Capacity & Energy” of the PPA is complied with.
- iv) For commissioning of the Project, cumulative capacity of DC arrays and cumulative capacity of the inverters installed shall be considered. In case of part commissioning of the Project, it shall be required to have the DC Arrays Capacity and inverters capacity be installed not less than the proposed part commissioning capacity.
- v) If generation at any time exceeds the maximum permissible AC capacity at delivery point, the excess generation during that period may not be considered under PPA.

Commissioning Procedure

The Solar PV Project will be declared as commissioned when all equipment as per rated project capacity has been installed and energy from the Project has flown into the grid, which will be verified by a committee/agency identified by MAHAGENCO/MNRE to witness the Commissioning of the Project.

Following is the chronology of the procedure to be followed for commissioning of the Project.

- i) SPDs shall give to the concerned RLDC/SLDC, State Nodal Agency (SNA) and MAHAGENCO at least thirty (30) days advance written notice, of the date on which it intends to synchronize the Power Project to the Grid System. The SPD shall be solely responsible for any delay or non-receipt of the notice by the concerned agencies, which may in turn affect the Commissioning Schedule of the Project. Early Commissioning of a Solar Project prior to the SCD is permitted on acceptance of power by MAHAGENCO. In order to facilitate this, SPDs shall inform the concerned RLDC/SLDC and MAHAGENCO well in advance, which is not less than 90 days prior to the date on which it intends to synchronize the Power Project to the Grid System.
- ii) Not more than 7 days prior to the proposed commissioning date, the SPD shall give the final written notice to MAHAGENCO, SNA and CTU requiring the commissioning committee/agency to visit the site to witness commissioning of the project. Following documents are required to be submitted by the SPD, physically in the office of MAHAGENCO along with the above notice, duly stamped and signed by the Authorized Signatory (scanned copies may also be allowed):
 1. Covering Letter
 2. Board resolution for authorized signatory for signing the documents related to commissioning of the Project and witnessing the commissioning.
 3. Installation report duly signed by the authorized signatory as per Appendix-2. The SPD is advised to take due care in furnishing such Installation Report. Discrepancy (if any) and observed by MAHAGENCO, may be construed as misrepresentation of information by the SPD and MAHAGENCO may take appropriate action as per this Agreement.
 4. Plant Layout, Plant (AC & DC) SLD, along with Inverter-wise module details.
 5. CEI/CEIG (as applicable) report containing approval for all the components, including modules, inverters, transformers and protection system, along with all annexures/attachments. It would be the responsibility of the SPD to obtain the certificate.
 6. Connectivity and Long Term Access, along with Transmission Agreement.
 7. Synchronization Certificate issued by CTU for ascertaining injection of power into grid.
 8. Certificate from the SPPD/ SPIA confirming 100% payment towards Upfront

BUYER-SPD PPA

Development Charges (UDC) to the SPPD/ SPIA and NOC for the same (if applicable)

- iii) After the submission/ upload of the documents by SPD, MAHAGENCO shall verify the documents and intimate/reply with remarks. In case any additional supporting/revised documents are asked by MAHAGENCO, the same have to be submitted by the SPD.
- iv) Based on the submission of the above documents by the SPD, MAHAGENCO shall intimate to the SPD about its readiness to visit the project site to witness the commissioning and shall notify the Commissioning Committee/Agency which shall visit the Project site to witness the commissioning of the Project. In case of a multi-agency Committee, the SPD shall ensure the presence of all the members of the Committee constituted to witness the commissioning, on the said date.
- v) The Commissioning Committee/Agency shall visit the Project site to verify the technical compliance on site as per the information submitted by the SPD and to witness the commissioning. In case the committee finds discrepancy/deviation from the information submitted by the SPD during on site verification, the same shall be recorded in the minutes of meeting of the Committee/Agency. MAHAGENCO shall decide the next date of visit of the Committee/Agency upon rectification of the discrepancies by the SPD.
- vi) On the date of site-visit, the SPD shall be required to demonstrate that equipment of rated capacity as per table given at S.No. (i) has been installed, all the inverters of rated capacity are operating and energy from the project has flown into the grid.
- vii) Joint Meter Reading (JMR) shall be taken at Delivery Point and Pooling Substation (if applicable)/plant premise on the date of site visit by the commissioning committee. This shall include information of respective meters installed at delivery/ interconnection point and pooling substation/plant premises.
- viii) In case the Project meets the requirements as per the provisions of the RfS as verified by the Commissioning Committee/Agency witnessing the commissioning, the Project shall be declared as having been commissioned as on the date of synchronization with the grid, as indicated in the Synchronization Certificate. The date of Commissioning of the Project may be indicated in the Minutes of Meeting of the Committee/ recommendation of the Agency visiting the Project. Any other observation contrary to the above, shall be clearly indicated in the Minutes/recommendations and further decision on commissioning of the Project shall be taken by MAHAGENCO in this regard.
- ix) Subsequent to the visit of the Commissioning Committee/Agency to the Project site, the SPD shall submit the following documents in hard copy/scanned form, in order to fulfil the requirements for issuance of Commissioning Certificate:
 - a. Minutes of Meeting of the Commissioning Committee/recommendations of the Agency which has witnessed the commissioning of the Project.

BUYER-SPD PPA

- b. Relevant documents from SLDC/ RLDC acknowledging successful data communication between plant end and SLDC/RLDC.
 - c. Invoices against purchase of the solar modules, Inverters/PCUs and DC cables along with the summary sheet containing the list of all the invoices, including details and number of items.
 - d. All supporting documents towards meeting the technical compliance along with datasheet/ warranty certificates/ contract agreement etc. as mentioned in Annexure-A of the RfS).
 - e. Snap shots of the plant, including but not limited to, solar PV modules, all central inverters (showing instantaneous and total generation of a particular date), switchyards\switchgears, Power Transformers, metering (as per applicable regulations) at delivery point etc. along with the Installation Report.
- x) In case of any deviations recorded by the Commissioning Committee/Agency which had prevented the declaration of commissioning of the Project as on the date of synchronization of the Project, the SPD shall be required to submit to MAHAGENCO, the necessary documents towards rectification of the deviations observed. Upon successful verification of the required documents, the fresh date of visit of the Commissioning Committee/Agency to the Project, shall be notified by MAHAGENCO. If the Commissioning Committee/Agency visiting the Project finds the deviations earlier noted having been suitably rectified by the SPD, the date of Commissioning of the Project in this case, shall be the actual date of visit of the Commissioning Committee/Agency, else, the entire process shall be repeated until the observed deviations are rectified by the SPD to the satisfaction of the Commissioning Committee/Agency visiting the Project.
- xi) Based on the documents as per (ix) above and in line with the Minutes of Meeting of the Commissioning Committee/ recommendations of the Agency, MAHAGENCO shall issue the recommendation to the respective State Nodal Agency (SNA) for issuance of Commissioning Certificate of the Project as per Appendix-3. The Commissioning Certificate shall declare the Project commissioned as on the date as intimated by MAHAGENCO to the SNA.
- xii) Subsequent to commissioning, the SPD shall provide the SCADA login details to MAHAGENCO for online real time data monitoring of the Project. The SPD may be required to push the required plant related data to MAHAGENCO designated server in xml/json formats.

Installation Report

(To be provided by SPD and to be submitted at most 7 days prior to proposed commissioning date, which shall be verified by Commissioning Committee)

Sr. No.	Capacity of the Project (MW)	
	Capacity already commissioned (MW)	
	Capacity proposed to be commissioned (MW)	
I.	Technology used (Mono/Multi Crystalline / thin film / Others; please specify along with capacity of each type)	
II.	Type of Tilt (Fixed Tilt/Seasonal Tilt/Tracking)	
III.	Rating of the each module (Wp)	
IV.	Number of modules installed of each type (along with Serial Nos. of all the modules installed)	
V.	Make of Module(s) installed of each type (including name of the Supplier and country of origin)	
VI.	Number of PCUs / Inverters installed (along with Serial Nos. of all the PCUs/Inverters installed)	
VII.	Make of the PCUs / Inverters (including name of supplier and country of origin)	
IX.	Rating of PCUs / Inverters	
X.	Date of installation of full capacity (as per capacity proposed to be commissioned)	
	PV arrays	
	PCUs / Inverters	
	Transformers	

Sample Part Commissioning / Full Commissioning Certificate

of Solar PV Power Project

(To be issued by the State Nodal Agency)

This is to certify that <M/s> having its registered office at ----- has successfully commissioned Capacity < MW > out of total <MW> installed Capacity on (Date) of their Solar PV Power Generation Project at Village -----, Tehsil/Taluka ----- & Dist. -----

The Commissioning Certificate has been issued on the basis of the following documents enclosed:

- (i) Installation Report including Snap shots of the Project from various angles
- (ii) Electrical Inspector Report
- (iii) Synchronization Certificate