

**ADANI ELECTRICITY MUMBAI LIMITED**

**DRAFT PPA**

**FOR PROCUREMENT OF POWER ON LONG TERM BASIS THROUGH COMPETITIVE  
BIDDING PROCESS FROM 350 MW GRID CONNECTED WIND SOLAR HYBRID POWER  
PROJECTS WITH GREENSHOE OPTION OF ADDITIONAL 350 MW UNDER GLOBAL  
COMPETITIVE BIDDING**

**Dated .....**

**ISSUED BY**

**Adani Electricity Mumbai Limited (AEML)  
CTS, 407/A (New), 408 Old Village, Eksar Devidas Lane off SVP road, Near Devidas lane  
telephone exchange, Borivali (West), Mumbai-400103**

Website: [www.adanielectricity.com](http://www.adanielectricity.com)

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This Power Purchase Agreement is made on the [Insert date] day of [Insert Month] of [Insert Year] at Mumbai.

Between

[Insert Name of the HPD], a company incorporated under the Companies Act 1956 or the Companies Act 2013 as applicable, having its registered office at [Insert Registered Office Address] (hereinafter referred to as "Hybrid Power Developer or HPD", which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and permitted assignees) as a Party of the First Part;

And

Adani Electricity Mumbai Limited, a company incorporated under the Companies Act 1956, having its registered office at .....(hereinafter referred to as "AEML", which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and assigns) as a Party of the Second Part.

The HPD and AEML are individually referred to as 'Party' and collectively referred to as 'Parties'.

Whereas:

Adani Electricity Mumbai Limited is integrated utility engaged in Generation at Dahanu, Transmission across Mumbai and Maharashtra and Distribution of electricity in suburbs of Mumbai.

In order to fulfil the Renewable Purchase Obligation (RPO) of its Distribution business and to meet the future power requirements, AEML vide its RfS No **RfS No. AEML/RE/HYB/PP/2019/001** dated 18.07.2019 had floated tender to procure wind solar hybrid power up to capacity of 350 MW through Competitive Bidding Process and additional 350 MW of power under Greenshoe option and the Hybrid Power Developer (HPD) has been declared Successful Bidder pursuant to Letter of Award (LOA) dated ..... for development Hybrid Power Project of .....MW capacity and sale of entire of electrical energy, so produced, for commercial purposes from such power plant to AEML.

AEML agrees to procure power from the HPD and the HPD has agreed to sell power to AEML up to the Contracted Capacity @Rs ...../kWh at Tariff offered by HPD as per the terms of this Agreement.

AND, WHEREAS the HPD has furnished Performance Bank Guarantee no..... dated ..... amounting to Rs. .... as per the RfS No. ....dated .....

AND, WHEREAS the HPD desires to set-up Hybrid Power Project of ..... MW capacity at Village ..... Taluka ..... District ..... State ..... and may change the project location, provided if the location is changed by the Hybrid Power Developer once at the time of achievement of Financial Closure i.e. within 12 months of signing of PPA as per the RfS provisions, by executing supplementary Agreement.

AEML shall be filing a petition under section 63 of The Electricity Act, 2003 before the Honourable Maharashtra Electricity Regulatory Commission for adoption of tariff discovered through the Competitive Bidding Process conducted by AEML through RfS no. **AEML/RE/HYB/PP/2019/001** dated 18.07.2019 and Addendums thereto, if any. Therefore, this Power Purchase Agreement shall be subject to the adoption and approval of tariff by the Honourable Commission.

The Hybrid Power Developer has taken responsibility to set up requisite power injection system at Delivery Point.

AND, WHEREAS, the Parties hereby agree to execute this Power Purchase Agreement setting out the Terms & Conditions for sale of power by HPD to AEML.

NOW THEREFORE IN VIEW OF THE FOREGOING PREMISES AND IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREINAFTER SET FORTH, AEML AND THE HPD, EACH TOGETHER WITH THEIR RESPECTIVE SUCCESSORS AND PERMITTED ASSIGNS, A PARTY AND COLLECTIVELY THE PARTIES, HEREBY AGREE AS FOLLOWS:

## ARTICLE 1: DEFINITIONS

### 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 State and Central 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 Central Electricity Regulatory Commission referred to in sub- section (1) of section 76 or the State Electricity Regulatory Commission referred to in section 82 or the Joint Electricity Regulatory Commission referred to in Section 83 of the Electricity Act 2003, 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 HPD and AEML, a day other than Sunday or a statutory holiday, on which the banks remain open for business in Mumbai;
"Capacity Utilization Factor" or "CUF"	:	Shall have the same meaning as provided in CERC (Terms & Conditions for tariff determination from renewable energy sources) Regulations, 2017 as amended from time to time; For illustration, CUF shall be calculated based on the annual energy injected and metered at the Delivery Point. In any Contract Year, if 'X' MWh of energy has been metered out at the Delivery Point for 'Y' MW Project capacity, $CUF = (X \text{ MWh} / (Y \text{ MW} * 8766)) * 100\%$ . It may be noted that in the above illustration, the capacity 'Y' MW shall refer to the Contracted Capacity in terms of the PPA;;

"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;
"CTU"	:	shall mean the Government Company notified by the Central Government under Sub-Section (1) of Section 38 of the Electricity Act, 2003.
"Change in Law"	:	shall have the meaning ascribed thereto in Article 12.1.1 of this Agreement;
"Commissioning"	:	shall have the meaning ascribed thereto in Article 5.1 of this Agreement;
"Commercial Operation Date (COD)"	:	shall mean the date on which the Project/ Unit is commissioned (certified by CTU/STU/DISCOM) and available for commercial operation and such date as specified in a written notice given at least 30 days in advance by the successful bidder to AEML
"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 sixty (60) days or such other longer period as the Parties may agree, commencing from the date of issuance of a HPD Preliminary Default Notice or AEML Preliminary Default Notice as provided in Article 13.3.2 and Article 13.4.2 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 Commercial Operation Date would occur, the Contract Year shall end on the date immediately before the Scheduled Commercial

		<p>Operation Date and a new Contract Year shall commence once again from the Scheduled Commercial Operation 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</p> <p>ii. provided further that the last Contract Year of this Agreement shall end on the last day of the Term of this Agreement;</p>
"Contracted Capacity"	:	shall mean _____ MW (AC) contracted with AEML for supply by the HPD to AEML at the Delivery Point from the Hybrid Power Project;
"Designated Substation"		shall mean the interconnecting substation located at [Insert details of location at Maharashtra STU periphery] having [Insert input / output voltage level specified] for interconnection of the Project with the grid;
"Dispute"	:	shall mean any dispute or difference of any kind between AEML and the HPD, 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"	:	shall mean the forty-fifth (45th) day after a Monthly Bill or a Supplementary Bill is received in hard copy and duly accepted by AEML, 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 AEML;
"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 regulation 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 (REA)/State Energy Accounts(SEA) 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 REA/SEA are not issued, Joint Meter Reading (JMR)/ Generation Credit Note (GCN) from CTU/STU will be considered; AEML reserves the right to choose from any of the above, i.e. JMR/GCN/SEA/REA;
"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 Commercial Operation Date subject to that the supply of power shall be limited for a period of 25 years from the Scheduled Commercial Operation 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 HPD has got financing for the power Project including the loan Agreements, 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 AEML;
"Force Majeure" or "Force Majeure Event"	:	shall have the meaning ascribed thereto in Article 11.3 of this Agreement;
"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 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 Maharashtra and any ministry, department, board, authority, agency, corporation, commission under the direct or indirect control of Government of India or the above state Government(s) or both, any political subdivision 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 HPD in accordance with Article 8.1.1 of this Agreement;
"Interconnection Facilities"	:	shall mean the facilities on HPD'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;
"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 a Company has multiple promoters (but none of the shareholders has more than 50% of voting rights and paid up share capital);
"Late Payment Surcharge"	:	shall have the meaning ascribed thereto in Article 10.4 of this Agreement;
"Law"	:	shall mean in relation to this Agreement, all Laws including Electricity Laws in force in India including Electricity Laws of 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 Commissions;
"Letter of Credit" or "LC"	:	shall have the meaning ascribed thereto in Article 10.6 of this Agreement;
"MERC"	:	shall mean Maharashtra Electricity Regulatory Commission;
"Metering Point/Delivery Point/Interconnection Point"	:	For intra - state projects, metering shall be at the LV side of pooling substation of Maharashtra STU; For inter - state projects, energy settlement and delivery point shall be at Maharashtra STU periphery
"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 specified, else a calendar month;
"Open Access Charges"	:	shall mean the charges levied by the CTU/ RLDC / STU/ SLDC for the grant of Open Access as defined in Electricity Act 2003 and amended time to time;
"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 10.6 of this Agreement;
"Performance Bank Guarantee"	:	shall mean the irrevocable unconditional bank guarantee, submitted by the HPD to AEML from a bank mentioned in RfS
"Preliminary Default Notice"	:	shall have the meaning ascribed thereto in Article 13 of this Agreement;
"Project/ Wind Solar Hybrid Power Project/ Power Project"	:	means new wind-solar hybrid project where the rated power capacity of one resource is at least 25% of the rated power capacity of the other resource and is defined by separate points of injection into the grid at interconnection/ metering point at ISTS substation or in case of sharing of transmission lines, by separate injection at pooling point. Each project must also have a separate control system and metering.
"Project Capacity"	:	shall mean the maximum AC capacity at the Delivery Point that can be scheduled on which the PPA shall be signed;

<p>“Project Financing / Arrangements Financial Closure”</p>	<p>:</p>	<p>shall mean arrangement of necessary funds by the HPD 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 a legally binding agreement for commitment of such finances;</p>
<p>“Prudent Utility Practices”</p>	<p>:</p>	<p>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:</p> <ul style="list-style-type: none"> <li>a operation and maintenance guidelines recommended by the manufacturers of the plant and equipment to be incorporated in the Power Project;</li> <li>b the requirements of Indian Law; and the physical conditions at the site of the Power Project;</li> </ul>
<p>“RBI”</p>	<p>:</p>	<p>shall mean the Reserve Bank of India;</p>
<p>“RLDC”</p>	<p>:</p>	<p>shall mean the concerned Regional Load Dispatch Centre established under Sub-section (1) of Section 27 of the Electricity Act, 2003;</p>
<p>“Rebate”</p>	<p>:</p>	<p>shall have the same meaning as ascribed thereto in Article 10.5 of this Agreement;</p>
<p>“Scheduled Commercial Operation Date” or “SCOD”</p>	<p>:</p>	<p>shall mean ..... [Insert Date that is Twelve (12) months from the Effective Date of this Agreement as applicable];</p>
<p>“SERC”</p>	<p>:</p>	<p>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;</p>
<p>“Solar PV Project”</p>	<p>:</p>	<p>shall mean the Solar Photo Voltaic Power Project that uses sunlight for direct conversion into electricity through Photo Voltaic Technology;</p>
<p>“SLDC”</p>	<p>:</p>	<p>shall mean the centre established under Sub-section (1) of Section 31 of the Electricity Act 2003, relevant for the State(s)</p>

		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;
"State Transmission Utility" or "STU"	:	shall mean the Government company notified by the 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 Notice"	:	shall mean the notice given by either Parties for termination of this 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 Commercial Operation Date (UCOD)"	:	shall mean the date of issuance of Commissioning certificate for the respective part(s) of the Hybrid Power Project subsequent to the demonstration of the compliance of Commissioning as per this Agreement and witnessed by the Committee duly constituted and also starts injecting 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;
"Wind Power"	:	Shall mean power generated from the Wind Power Projects;
"Wind Power Project"	:	shall mean the project that uses wind for conversion into electricity and that is being set up by the HPD to provide Wind Power to Buyer as per the terms and conditions of this Agreement;

## 1.2. Interpretations

- 1.2.1. "Agreement" shall be construed as including a reference to its Schedules and/or Appendices and/or Annexure;
- 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 rupee symbol "₹" shall denote Indian Rupees, the lawful currency of India;
- 1.2.8. The "winding-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, winding-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 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 and Condition Precedent

- 2.1.1.** This Agreement shall come into effect from [Insert the Date as on 30th day of issuance of Letter of Award to the HPD] and such date shall be the Effective Date for the purpose of this Agreement.
- 2.1.2.** Notwithstanding the Effective Date, the condition precedent for the enforcement of the obligations of either party against the other under this Agreement shall be that within two (2) months from the Effective Date, AEML shall duly obtain the order of the MERC adopting the Tariff and approving the procurement of the Contracted Capacity, on the terms and conditions contained in this Agreement. Any modifications in the PPA directed by the MERC, as a result of adoption of the Tariff and approving the procurement of the Contracted Capacity, shall be binding on both Parties to this Agreement.
- 2.1.3.** The Parties agree that in the event, the order of adoption of Tariff and the Agreements for procurement of Power, as mentioned above is not given by the MERC within the time specified above, this Agreement shall stand cancelled and terminated with no liability of either party to the other, unless the parties mutually agree to extend the time for fulfilling the Conditions Precedent.

### 2.2. Term of Agreement

- 2.2.1.** Subject to Article 2.1, 2.3 and 2.4, 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 agreed terms and conditions between the Hybrid Power Developer (HPD) and AEML.
- 2.2.2.** The HPD 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 AEML, AEML 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 AEML or HPD terminates the Agreement, pursuant to Article 13 of this Agreement or if the terms of Conditions Precedent mentioned in Article 2.1.2 are not satisfied.

### 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 damages 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 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 HPD

3.1.1. The HPD agrees and undertakes to duly perform and complete all of the following activities including Financial Closure at the HPD's own cost and risk within twelve (12) months from the Effective Date, i.e. by \_\_\_\_\_ [insert the date which is twelve months from Effective Date] unless such completion is affected by any Force Majeure event, or if any of the activities is specifically waived in writing by AEML:

- a. The HPD shall obtain for all Consents, Clearances and Permits required for supply of power to AEML as per the terms of this Agreement. AEML shall have no obligation to recommend to any department/agency or the Govt. for the grant/permission for the Hybrid Power Project. The HPD shall, on his own, obtain permissions/sanctions from Government authorities, if any required for establishing the Project. Any steps that may be taken by AEML in regard to grant of such consents and permits or any other approval to be taken by the HPD shall only be a voluntary endeavour with no intention of being bound by any legal or binding obligation.
- b. HPD shall submit details of all planned/proposed solar panels, inverters and wind turbine generators, along with necessary purchase order/agreements for the project at least 14 days prior to the scheduled financial closure date. The HPD shall also indicate the rated capacity of any storage facility, if proposed at the Project site.
- c. HPD shall submit power evacuation/ Connectivity Agreement of successful bidder with CTU/ STU/DISCOM.
- d. The HPD shall make Project Financing Arrangements for its Projects(s) and shall provide necessary certificates/documents to AEML in this regard.
- e. The HPD shall furnish necessary documents to establish that the required land for project development is in 100% clear possession of the HPD.

- f. The HPD shall submit plans to fulfil the technical requirements according to the MNRE guidelines for selection of projects and produce the documentary evidence of the same;
- g. The HPD shall submit to AEML the relevant documents as stated above, complying with the Conditions Subsequent, within twelve (12) months from the Effective Date.

### **3.2. Consequences of non-fulfilment of conditions subsequent**

- 3.2.1.** In case of a failure to fulfil the conditions subsequent and/or submit the documents as above, AEML shall encash the Performance Bank Guarantee submitted by the HPD, terminate this Agreement and remove the Project from the list of the selected Projects by giving a prior notice to the HPD in writing of at least seven (7) days unless the delay is not owing to any action or inaction on the part of the HPD or due to Force Majeure Event.

The termination of the Agreement shall take effect upon the expiry of the 7<sup>th</sup> day of the above notice.

- 3.2.2.** For the avoidance of doubt, it is clarified that this Article shall survive the termination of this Agreement.
- 3.2.3.** In case of the inability of the HPD 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.
- 3.2.4.** Provided that due to the provisions of this Article 3.2.3, any increase in the time period for completion of conditions subsequent mentioned under Article 3.1, shall also lead to an equal extension in the SCOD.

### **3.3. Performance Bank Guarantee**

- 3.3.1.** The Performance Bank Guarantee having validity of 30 months from the date of issuance of LOA and of Rs. 20 Lakh/MW to be furnished by HPD 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 the RfS Document.

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

#### **3.4. Return of Performance Bank Guarantee**

- 3.4.1. Subject to Article 3.3, AEML shall return / release the Performance Bank Guarantee immediately after the successful Commissioning of the Project after taking into account adjustment 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 AEML under this Agreement.

## ARTICLE 4: CONSTRUCTION & DEVELOPMENT OF THE PROJECT

### 4.1. HPD's Obligations

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

- a. Making arrangements for land and associated infrastructure for development of the Project and for evacuation arrangement till the delivery point by the SCOD and all clearances related thereto;  
The HPD shall furnish the necessary documents to establish possession in the name of the Project Developer of the required land/ Lease Agreement;
- b. Obtaining at solely at its cost and responsibility, all Consents, Clearances and Permits other than those obtained under Article 3.1 and maintaining all Consents, Clearances and Permits in full force and effect during the Term of this Agreement; and
- c. 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; and
- d. The commencement of supply of power up to the Contracted Capacity to AEML no later than the Scheduled Commercial Operation Date and continuance of the supply of power throughout the Term of the Agreement; and
- e. Connecting the Power Project switchyard with the Interconnection Facilities at the Metering Point/ Delivery Point/ Designated substation; and
- f. Owning the Power Project throughout the Term of Agreement free and clear of encumbrances, except those expressly permitted under Article 15;
- g. Maintaining its controlling shareholding (controlling shareholding shall mean more than 50% of the voting rights and paid-up share capital) prevalent on the Effective Date of PPA in the Company/Consortium developing the project up to a period of three (3) year after the Commercial Operation Date. However transfer of controlling shareholding within the same Group Companies of HPD will be allowed with the permission of AEML after the COD subject to the condition that the management control remains within the same Group Companies; and
- h. Obtaining Long Term Access (LTA) and executing Transmission Service Agreement with CTU/STU as the case may be, for evacuation of the Contracted Capacity and maintaining it throughout the term of the Agreement.
- i. The HPD shall be responsible to for directly coordinating and dealing with Load Dispatch Centers, Regional Power Committees, and other authorities in all respects

- in regard to declaration of availability, scheduling and dispatch of power generated by HPD and due compliance with deviation and settlement mechanism and the applicable Grid Code/State/Central Regulations, acknowledging that the HPD and AEML are the grid connected entities under this Agreement; and
- j. Fulfilling all obligations undertaken by the HPD under this Agreement.

#### **4.2. Information regarding Interconnection Facilities**

- 4.2.1.** The HPD shall be required to obtain all information from STU/ CTU / concerned authority with regard to the Interconnection Facilities necessary to enable it to design, install and operate Plant and all interconnecting apparatus/ equipment on the HPD's side of the Metering Point/ Delivery Point/ Interconnection Point to enable delivery of electricity at the Metering Point/ Delivery Point/ Interconnection Point.
- 4.2.2.** The responsibility of getting connectivity with the transmission system up to Designated Substation will entirely be of the HPD, at its cost and responsibility. The transmission of power up to the point of interconnection where the metering is done for energy accounting shall also be the responsibility of the HPD at his own cost. The maintenance of Transmission system up to the designated point shall be the responsibility of the HPD.
- 4.2.3.** The arrangement of connectivity shall be made by the HPD through a dedicated transmission line or sharing of a line. The entire cost of transmission including cost of construction of line, any other charges, losses etc. from the Project up to the Metering Point/Delivery Point/Interconnection Point shall be borne by the HPD and the same will not be reimbursed by AEML. In case non- availability of grid and Transmission System during Term of this Agreement, for reasons not attributable to the HPD, provisions of Article 4.10 shall be applicable.
- 4.2.4.** 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 HPD to the extent the delay is attributable to the HPD.
- 4.2.5.** All costs and charges including but not limited to the wheeling charges and losses up to the Metering Point/ Delivery Point/ Interconnection Point associated with this arrangement will also be borne by the HPD.

4.2.6. In case of Pooling substation, losses in the transmission line shall be apportioned among the HPDs who share such a Pooling arrangement, based on their monthly generation.

#### 4.3. Purchase and sale of Contracted Capacity

4.3.1. Subject to the terms and conditions of this Agreement, the HPD undertakes to sell Hybrid Power to AEML and AEML undertakes to pay Tariff for all the energy supplied at the Metering Point/ Delivery Point/ Interconnection Point corresponding to the Contracted Capacity.

4.3.2. It will be entirely the HPD's responsibility to make payments to CTU/STU for the consumption of reactive energy. The HPD shall comply with the Orders issued by CERC/ SERC from time to time.

#### 4.4. Right to Contracted Capacity & Energy

4.4.1. The HPD will declare the CUF of the Project and will be allowed to revise the same once within first year of COD. AEML, in any Contract Year except for the first year of operation, shall not be obliged to purchase any additional energy from the HPD beyond ..... Million kWh (MU) of the energy generated from the wind-solar Hybrid Power Project [Insert value of energy generated corresponding to 110% of the declared CUF for wind-solar Hybrid Power project],. In case of full commissioning of the Project, for the first year of operation, the above limits shall be considered , on pro-rata basis. In case of part commissioning of the Project, the above limits shall be considered on pro-rata basis till the commissioning of full Contracted Capacity of the Project.

4.4.2. If for any Contract Year except for first year of operation, it is found that the HPD has not been able to generate minimum energy of .....Million kWh (MU) of the energy generated from the wind- solar hybrid Power Project [Insert value of energy generated corresponding to 90% of the declared CUF for the wind-solar hybrid power project], on account of reasons solely attributable to the HPD, the non-compliance by HPD shall make the HPD liable to pay the compensation at the PPA tariff or the cost of power procured by AEML from alternate source to make up for such shortfall in generation by HPD(whichever is higher). 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 developer (subject to certification from SLDC/RLDC). The annual CUF shall be calculated separately for each component, every year from 1st April of the year to 31st March next year. This compensation shall be applied to the amount of shortfall in generation during the Contract Year, separately for each component. The compensation shall not be applicable in events of Force Majeure identified under the PPA affecting supply of power by HPD.

- 4.4.3.** Any excess generation over and above the quantum specified under Article 4.4.1 and upto ----- Million kWh (MU) [insert MUs corresponding to 110% CUF], shall be purchased by AEML at a 75% of the Tariff as per Article 9. While the HPD would be free to install the solar panels and wind turbines 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 entity other than AEML (unless refused by AEML). The HPD shall be required to intimate AEML about the proposed excess quantum of energy likely to be generated from the Project within any Contract Year, at least 2 months prior to the proposed date of commencement of excess generation. AEML shall be required to intimate its approval/refusal to the HPD, for buying such excess generation within 30 days of receiving the above intimation from the HPD for excess generation. In the event the offer of the HPD is not accepted by AEML within the said period of 30 days, such right shall cease to exist and the HPD shall, at its sole discretion, may sell such excess power to any third party.
- 4.4.4.** 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 HPD 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 / MERC /SLDC or any other competent agency. HPD cannot claim compensation to the extent of generation loss above rated capacity due to offtake constraints because of grid unavailability in case of peak capacity is higher than the rated capacity.
- 4.4.5.** Any energy produced and flowing into the grid before SCOD shall not be at the cost of AEML. AEML may however agree to buy such power as per Article 9.4.

#### 4.5. Extensions of Time

**4.5.1.** In the event that the HPD is prevented from performing its obligations under Article 4.1 by the Scheduled Commercial Operation Date due to:

- a. any AEML Event of Default; or
- b. Force Majeure Events affecting AEML, or
- c. Force Majeure Events affecting the HPD,

the Scheduled Commercial Operation Date and the Expiry Date shall be deferred, subject to the limit prescribed in Article 4.6.2, for a reasonable period but not less than 'day for day' basis, to permit the HPD or AEML through the use of due diligence, to overcome the effects of the Force Majeure Events affecting the HPD or AEML, or till such time such Event of Default is rectified by AEML.

**4.5.2.** Not used

**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 nine (9) 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 Commercial Operation 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 Scheduled Commercial Operation Date and the Expiry Date newly determined shall be deemed to be the Scheduled Commercial Operation Date and the Expiry Date for the purposes of this Agreement.

**4.5.6.** Not Used.

**4.5.7.** Notwithstanding anything to the contrary contained in this Agreement, any extension of the Scheduled Commercial Operation Date arising due to any reason envisaged in this Agreement shall not be allowed beyond 21 months from the Effective date of PPA.



#### **4.6. Liquidated Damages not amounting to penalty for delay in Commissioning**

- 4.6.1.** If the HPD is unable to commission the Project by the Scheduled Commercial Operation Date other than for the reasons specified in Article 4.5.1, the HPD shall pay to AEML, damages for the delay in such commencement of supply of power and making the Contracted Capacity available for dispatch by the Scheduled Commercial Operation Date as per the following:
- i. Delay upto 6 months – The total PBG amount on per day basis and proportionate to the balance capacity not commissioned.
  - ii. Delay of more than six months – In case the commissioning of the Project is delayed beyond six (6) months from the Scheduled Commissioning Date, the tariff discovered for the Project after e-Reverse Auction shall be reduced at the rate of 0.50 paise/kWh per day of delay for the delay in such remaining capacity which is not commissioned.
- 4.6.2.** The maximum time-period allowed for Commissioning of the full Project Capacity with encashment of Performance Bank Guarantee and reduction in pre-fixed Tariff shall be limited to 21 months from the Effective date of PPA. In case, the Commissioning of the Power Project is delayed beyond 21 months from the effective date of the PPA, it shall be considered as an HPD Event of Default and provisions of Article 13 shall apply and the Contracted Capacity shall stand reduced/amended to the Project Capacity Commissioned within 21 months of the Effective Date, provided that the commissioned capacity is not below 50 MW or 50% of the allocated Project Capacity, whichever is higher, and the PPA for the balance Capacity will stand terminated and shall be reduced from the Project Capacity.
- 4.6.3.** If the HPD fails to commission Project capacity of 50 MW or 50% of the allocated Project Capacity, whichever is higher, within a period of 21 months from the Effective date of PPA, apart from imposition of penalties as listed above, he shall be blacklisted and will not be allowed to participate in any other scheme of AEML for a period to be decided by it. For the purpose of calculation of the above delay charges, 'month' shall be considered as a period of 30 days. In case of delay of project commissioning due to the reasons beyond control of the HPD, AEML after having satisfied with documentary evidence produced by the HPD for the purpose and which AEML finds beyond doubt,

can extend the time for commissioning date by upto three months, without any financial implications to the HPD.

**4.6.4.** However, if as a consequence of delay in Commissioning, the applicable Tariff changes, that part of the capacity of the Project (if applicable), for which the Commissioning has been delayed shall be paid at the Tariff as per Article 9 of this Agreement.

#### **4.7. Acceptance/Performance Test**

**4.7.1.** Prior to synchronization of the Power Project, the HPD 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/state government to carry out testing and certification for the Hybrid Power Projects.

#### **4.8. Third Party Verification**

**4.8.1.** The HPD 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 AEML and a third Party nominated by AEML for inspection and verification of the works being carried out by the HPD 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 HPD 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 HPD 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 HPD 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. Offtake constraints due to Transmission Infrastructure / grid Unavailability & Backdown during the operation of the Project:**

**4.10.1. Generation Compensation in offtake constraints due to grid Unavailability:** During the operation of the Project, generated power cannot be evacuated but due to transmission unavailability (to be certified by RLDC/NLDC), the power is not evacuated, for reasons not attributable to the HPD. In such cases, subject to the submission of satisfactory documentary evidences from the competent authorities, the generation compensation shall be restricted to the following and there shall be no other claim, directly or indirectly against AEML:

Duration of grid unavailability	Provision for Generation Compensation
Grid unavailability in a contract as beyond 50 hours in a Contract Year as defined in the PPA	<p><b>Generation Loss = [(Average Generation per hour during the Contract Year) × (number of hours of grid unavailability during the Contract Year)]</b></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> <p>The excess generation by the HPD equal to this generation loss shall be procured by AEML at the PPA Tariff so as to offset this loss in the succeeding 3 (three) Contract Years.</p>

**4.10.2. Offtake constraints due to Back down:** In the eventuality of backdown, subject to the submission of documentary evidences from the competent authorities, the HPD shall be eligible for a minimum generation compensation, from AEML, restricted to the following and there shall be no other claim, directly or indirectly against AEML:

Duration of Backdown	Provision for Generation Compensation
Hours of Back down during a monthly billing cycle.	<p><b>Minimum Generation Compensation = 50% of [(Average Generation per hour during the month) × (number of back down hours during the month)]X PPA Tariff</b></p>

	<p>Where, Average Generation during the month corresponding to the capacity backed down (kWh) = (CUF during the month) x <math>\Sigma</math>(Backed down capacity in MW x corresponding time of back down in hours x 1000)</p>
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**4.10.3.** The HPD 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 as calculated above, will be limited to the extent of shortfall in annual generation corresponding to the maximum CUF permitted as per Article 4.4.1 and the same will be settled on annual basis. The Generation Compensation shall be paid as part of the energy bill for the successive month after receipt of Regional/State Energy Accounts/Joint Meter Reading (REA/SEA/JMR).

**4.10.4.** It is hereby clarified that for the purpose of Article 4.10, "generation" shall mean scheduled energy based on Energy Accounts and JMR.

## ARTICLE 5: SYNCHRONISATION, COMMISSIONING AND COMMERCIAL OPERATION

### 5.1. Synchronization, Commissioning and Commercial Operation

- 5.1.1. The HPD shall give the concerned RLDC/SLDC, AEML 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.
- 5.1.2. Subject to Article 5.1.1, the Power Project may be synchronized by the HPD 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.
- 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 HPD at its generation facility of the Power Project at its own cost. The HPD 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 HPD shall immediately after each synchronization/tripping of generator, inform the sub-station of the grid System to which the Power Project is electrically connected and all other concerned authorities in accordance with applicable grid Code under intimation to AEML. In addition, the HPD will inject in-firm power to grid from time to time to carry out operational/ functional test prior to commercial operation, subject to applicable laws and regulations at the Project site. AEML shall not be liable to pay any price to HPD for such infirm Power injected. 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 HPD shall commission the Project as per procedure detailed in RfS within Twelve (12) Months from the Effective Date. There can be part Commissioning of the project. Declaration of COD / UCOD shall only be done subject to the demonstration

of the compliances as per RfS and subsequent upon the successful visit by the CTU/STU/Discom.

- 5.1.6.** There can be part Commissioning of the project. Part Commissioning of the project shall mean that all equipment corresponding to the part capacity have been installed and commissioned and corresponding energy has flown into the grid. The minimum capacity for acceptance of first part commissioning at one project site shall be equivalent to project capacity 50 MW or 50% of the allocated Project Capacity, whichever is higher, and balance capacity thereafter in one go or in batches of capacity equivalent to project capacity of not less than 50 MW or in one go.
- 5.1.7.** The Parties agree that for the purpose of commencement of the supply of electricity by HPD to AEML, liquidated damages for delay etc., the Scheduled Commercial Operation Date as defined in this Agreement shall be the relevant date.

## ARTICLE 6: DISPATCH AND SCHEDULING

### 6.1. Dispatch and Scheduling

- 6.1.1. The HPD shall be required to schedule its power as per the applicable regulations requirements / guidelines of CERC / MERC /SLDC / RLDC/SERC 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 HPD. The HPD shall make arrangements for scheduling of wind and solar power from the respective components of the Project, if required by the Buyer.
- 6.1.2. The HPD shall be responsible for any deviation from scheduling and for any resultant liabilities on account of charges for deviation as per applicable regulations.
- 6.1.3. Hybrid Power Developer shall be responsible for arrangement of start-up power/auxiliary consumption with no cost to AEML

## ARTICLE 7: METERING

### 7.1. Reading and Correction of Meters

7.1.1. The metering point will be as given below:

- a. For Intra-state projects, metering shall be at the LV side of pooling substation of Maharashtra STU.
- b. For Inter-state projects, energy settlement and delivery point shall be at Maharashtra STU periphery.

7.1.2. For the purpose of energy accounting, the ABT compliant meter with Automated Meter Reading (AMR) feature shall be installed by the HPD at the Metering Point.

7.1.3. Interface metering shall conform to the Central Electricity Authority (Installation and Operation of Meters) Regulations 2014 and amendment thereto. CTU/STU/DISCOM shall stipulate specifications in this regard.

7.1.4. The HPD shall bear all costs pertaining to installation, testing, calibration, maintenance, renewal and repair of meters at HPD's side of Metering Point/ Delivery Point/ Interconnection Point. The HPD shall be responsible for regular downloading and transmission of metered data to the concerned agencies. In addition to ensuring compliance of the applicable codes, the HPD shall install Main & Check meters at Delivery Point. Installation of the Stand-by meter shall be as per the applicable regulations of the State where the Project is located.

7.1.5. In case of pooling of multiple Projects, power from multiple Projects can be pooled at a Pooling Substation prior to the Delivery Point and the combined power can be fed at Delivery Point through a common transmission line from the Pooling Substation. In such cases, ABT compliant sub-meters are also to be set up at pooling substation to segregate multiple Projects in addition to the meters at Delivery Point.

7.1.6. The ABT metering equipment consisting of Main and Check Meters with separate CT and PT shall be identical in make, technical standards and of 0.25 accuracy class and calibration and comply with the requirements of Electricity Rules.



- 7.1.7.** The meters installed at the Metering Point shall have four quadrant, three phase, four wires and provision for on line/automatic reading and time slots as required by purchaser and SLDC.
- 7.1.8.** The HPD shall also establish backup metering system/check meter. In the event of the Main Metering System is not in service for the reason of maintenance, repairs or testing, then the Backup Metering System/Check Meter shall be used during the period for which the Main Metering System is not in service and the provisions above shall apply to the reading of the Backup Metering System.
- 7.1.9.** In case of pooling of multiple Projects, power from multiple Projects can be pooled at a Pooling Substation prior to the Delivery point and the combined power can be fed at Delivery point through a common transmission line from the Pooling Substation. In such cases, ABT compliant sub-meters (two meters, each with separate CT, PT) are also to be set up at pooling substation for individual projects in addition to the meters at Delivery Point as described in Article 7.1.4.
- 7.1.10.** The HPD shall also maintain records of generation of electrical energy from wind and solar component of the Hybrid Project separately. The same shall be made available by the HPD to AEML as and when required by AEML.

## **7.2. Testing of the metering equipment:**

- 7.2.1.** The Main and Check Meters shall be tested for accuracy, with a portable standard meter, by the National accredited Labs and sealed by HPD at its own cost. HPD/STU/CTU shall carry out the calibration, periodical testing, sealing and maintenance of meters in the presence of the authorized representative(s) of the AEML and the representative of the HPD shall sign on the results thereof.
- 7.2.2.** The frequency of meter testing shall be annual. All the meters will be tested only at the Metering Point. HPD will provide a copy of the test reports to AEML.
- 7.2.3.** If during testing, both the Main and Check Meter are found within the permissible limit of error i.e. 0.2%, the energy computation will be as per the Main Meter. If during test, any of the Main Meters is found to be within the permissible limits of error but the corresponding Check Meter is beyond the permissible limit; the energy computation will be as per the Main Meter. The Check Meter shall be calibrated immediately.

- 7.2.4. If during the tests, any of the Main Meters is found to be beyond permissible limits of error, but the corresponding Check Meters is found to be within the permissible limits of error, then the energy computation for the month upto date and time of such test check shall be in accordance with Check Meter. The Main Meter shall be calibrated immediately and the energy for the period thereafter shall be as per the calibrated Main Meter.
- 7.2.5. Whenever difference between the readings of the Main Meter and the Check Meter for any month is more than 0.2%, the following steps shall be taken:
- a. Checking of CT and PT connections
  - b. Testing of accuracy of meter at site with reference standard meter of accuracy class higher than the meter under the test.
- If difference exists even after such checking or testing, then defective meter shall be replaced with a correct meter.
- 7.2.6. In case of consumption failures like burning of meter and erratic display of metered parameters and when error found in testing of meter is beyond the permissible limit or error provided in relevant standard, the meter shall be immediately replaced with a correct meter.
- 7.2.7. If during any of the monthly meter readings, the variation between the Main Meter and the Check Meter is more than 0.5%, all the meters shall be re-tested and calibrated immediately by HPD with no cost to AEML. During this period energy recorded with SCADA shall be used for billing & payment purposes.
- 7.2.8. For all times the reading of the Main meter only will be considered except in rarest conditions such as maintenance, repairs, testing or discrepancy in meter reading with compare to check meters then the Check meter reading may be considered.

### 7.3. Sealing and Maintenance of Meters

- 7.3.1. The Main Metering System and the Backup Metering System shall be sealed in the presence of representatives of HPD, STU/CTU and AEML.
- 7.3.2. When the Main Metering System and / or Backup Metering System/Check Metering System and / or any component thereof is found to be outside the acceptable limits of

accuracy or otherwise not functioning properly, it shall be repaired, re-calibrated or replaced by the HPD and / or CTU/STU/AEML at HPD's cost, as soon as possible.

- 7.3.3. Any meter seal(s) shall be broken only by CTU / STU/AEML's representative in the presence of Power Producer's representative whenever the Main Metering System or the Backup Metering System is to be inspected, tested, adjusted, repaired or replaced.
- 7.3.4. All the Main and Check Meters shall be calibrated at least once in a period of one year.
- 7.3.5. In case, both the Main Meter and Check Meter are found to be beyond permissible limit of error, both the meters shall be calibrated immediately and the correction applicable to main meter shall be applied to the energy registered by the Main Meter at the correct energy for the purpose of energy accounting /billing for the actual period during which inaccurate measurements were made, if such period can be determined or, if not readily determinable, shall be the shorter of:
  - a. The period since immediately preceding test of the relevant Main meter, or
  - b. One hundred and eighty (180) days immediately preceding the test at which the relevant Main Meter was determined to be defective or inaccurate.

#### 7.4. Records

- 7.4.1. Each Party shall keep complete and accurate records and all other data required by each of them for the purposes of proper administration of this Agreement and the operation of the Power Plant. Among such other records and data, the HPD shall maintain an accurate and up-to-date operating log at the Power Plant with records of:-
  - a. Fifteen (15) minutes logs of real and reactive power generation, frequency, transformer tap position, bus voltage(s), Main Meter and Back up Meter Readings and any other data mutually agreed;
  - b. any unusual conditions found during operation / inspections;
  - c. chart and printout of event loggers, if any, for system disturbances/ outages;
  - d. All the records will be preserved for a period of 36 months.

- 7.4.2. The HPD shall maintain records of generation of electrical energy from wind and solar component of the Hybrid Project separately. The same shall be made available by the HPD to AEML as and when required by AEML.
- 7.4.3. 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.
- 7.4.4. Online arrangement would have to be made by the HPD at its own cost for submission of above data regularly for the entire period of this PPA to the SLDC, AEML and the concerned Ministry or concerned agency as per applicable regulation / directions.
- 7.4.5. Reports on above parameters on monthly basis (or as required by regulation / guidelines) shall be submitted by the HPD to RLDC/SLDC and MNRE and inform the same to AEML for entire period of PPA

## ARTICLE 8: INSURANCES

### 8.1. Insurance

**8.1.1.** The HPD 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 and under applicable laws.

### 8.2. Application of Insurance Proceeds

**8.2.1.** In case the Project not being implemented through Financing Agreement(s), save as expressly provided in this Agreement or the Insurances, the proceeds of any 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, AEML shall have claim on such proceeds of such Insurance.

### 8.3. Effect on liability of AEML

**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 HPD can claim compensation, under any Insurance shall not be charged to or payable by AEML. It is for the HPD 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 HPD shall be entitled to receive the Tariff of Rs. [Insert applicable Tariff]/ kWh fixed for the entire term of this Agreement, with effect from the SCOD subject to the Article 4.6 of this Agreement. In cases of early part-Commissioning (if applicable), till SCOD, subject to the consent for such purchase by AEML, AEML may purchase the generation at 75% (seventy-five per cent) of the PPA Tariff. However, in case the entire Project Capacity is commissioned prior to SCOD, AEML may purchase energy supplied till SCOD at [Insert applicable Tariff]/kWh, subject to consent of AEML for procurement of such power.
- 9.2. Provided further that if the Commissioning of the Unit(s) is delayed beyond 6 months from the Scheduled Commercial Operation Date, the Applicable Tariff given in Article 9.1, for the Unit(s) not commissioned, shall be reduced at the rate of half paisa (0.50 (half) paisa) per unit per day of such delay and for such Unit(s).
- 9.3. In the event of change in Tariff due to delay in Commissioning of Unit(s), the Weighted Average Tariff for the Contracted Capacity shall be applied considering Capacity of Units commissioned before and after the Scheduled Commercial Operation Date within 12 months but after changed Tariff period, as Weights for determination of Weighted Average Tariff for the period when both the Tariffs are applicable.
- 9.4. Any excess generation over and above the quantum specified under Article 4.4.1 and upto ----- Million kWh (MU) [insert MUs corresponding to 110% of declared CUF], may be purchased by AEML at 75% Tariff as per Article 9.1, provided AEML grant consent for purchase of such generation.. Any energy produced and flowing into the grid before SCOD shall not be at the cost of AEML. AEML may however agree to purchase such power provided AEML consents to purchase such energy. However, the HPD will not be entitled to sell energy generated prior to SCOD or excess energy during any Contract Year to any other entity without offering such quantum to AEML (unless refused by AEML) and only if AEML desires to purchase such energy AEML shall have the right to purchase such quantum of excess energy.

## ARTICLE 10: BILLING AND PAYMENT

### 10.1. General

**10.1.1.** From the commencement of supply of power, AEML shall pay to the HPD the monthly Tariff Payments subject to the adjustments as per provisions of this Agreement including Article 6, in accordance with this Article and Article 9. All Tariff Payments by AEML shall be in Indian Rupees.

**10.1.2.** The HPD shall be required to make arrangements and payments for import of energy (if any) as per applicable regulations of respective SERC/CERC.

### 10.2. Delivery and Content of Monthly Bills/Supplementary Bills

**10.2.1.** The HPD shall issue to AEML a signed Monthly Bill/Supplementary Bill for the immediately preceding Month for the energy supplied at the Delivery Point based on the REA/SEA/ Joint Meter reading /GCN as certified by Maharashtra SLDC/RLDC as may be applicable.

**10.2.2.** The HPD will send to the AEML by hand delivery/ courier, the monthly energy bill showing all the billing parameters, rates and any other data reasonably pertinent to the calculation of monthly payments to the HPD along with applicable supporting documents as per Article 10.2.1.

**10.2.3.** The Monthly Bill of the HPD shall clearly indicate amount due, both with and without prompt payment rebate and respective Due Dates.

**10.2.4.** The Monthly Bill amount shall be the product of the energy as per the Energy Account and the Applicable Tariff.

**10.2.5.** Payment will be due on the forty-fifth (45<sup>th</sup>) day following the receipt of the billing invoice and duly accepted by AEML.

### 10.3. Payment of Monthly Bills

- 10.3.1.** AEML shall pay the amount payable under the Monthly Bill/Supplementary Bill by the Due Date to such account of the HPD, as shall have been previously notified by the HPD in accordance with Article 10.3.2 below.
- 10.3.2.** All payments required to be made under this Agreement shall also include any deduction or set off for:
- deductions required by the Law; and
  - amount claimed by AEML, if any, from the HPD, will be adjusted from the monthly energy payment. In case of any excess payment adjustment, 1.25% per month surcharge will be applicable on day to day basis.
- 10.3.3.** The HPD shall open a bank account (the "HPD's Designated Account") for all Tariff Payments (including Supplementary Bills) to be made by AEML to the HPD, and notify AEML of the details of such account at least ninety (90) Days before the dispatch of the first Monthly Bill. AEML shall also designate a bank account at Mumbai ("AEML's Designated Account") for payments to be made by the HPD to AEML, if any, and notify the HPD of the details of such account ninety (90) Days before the Scheduled Commercial Operation Date. AEML and the HPD shall instruct their respective bankers to make all payments under this Agreement to the HPD's Designated Account or AEML's Designated Account, as the case may be, and shall notify either Party of such instructions on the same day.

#### **10.4. Late Payment Surcharge**

- 10.4.1.** In the event of delay in payment of a Monthly Bill by AEML beyond Forty five (45) days of its Due Date, a Late Payment Surcharge shall be payable to the HPD 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 HPD. The Late Payment Surcharge shall be claimed by the HPD through the Supplementary Bill.
- 10.4.2.** Subject to the Article 9 of this Agreement, in the event of early Commissioning of the Project and subject to acceptance by AEML, the payment for the power fed to the grid may be accounted from the date of UCOD, but HPD would be allowed to raise Bills against such power only from the Scheduled Commercial Operation Date or UCOD, whichever is later, subject to the conditions as stipulated in Article 9.

#### **10.5. Rebate**



- 10.5.1.** For payment of any Bill on or before Due Date, the following Rebate shall be paid by the HPD to AEML in the following manner:
- a. A rebate of 2% shall be payable to the AEML for the payments made within a period of 10 days of the presentation of hard copy of Bill along with required supporting documents acceptable to AEML at AEML office.
  - b. Any payments made beyond a period of 10 days of the date of presentation of hard copy of Bill along with required supporting documents at AEML 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 AEML office.
  - d. No rebate shall be payable on the Bills raised on account of Late Payment Surcharge and Change in Law relating to taxes, duties, cess etc.

## **10.6. Payment Security Mechanism**

### **A. Letter of Credit (LC):**

- 10.6.1.** AEML shall extend to the HPD, in respect of payment of its Monthly Bills and/or Supplementary Bills, a monthly unconditional, revolving and irrevocable letter of credit ("Letter of Credit"), which may be drawn upon by the HPD in accordance with this Article.
- 10.6.2.** Subject to Article 10.6.1, not later than one (1) Month before the start of supply, AEML through a scheduled bank shall extend a Letter of Credit in favour of the HPD, 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:
- a. for the first Contract Year, equal to the estimated average monthly billing;
  - b. for each subsequent Contract Year, equal to the average of the monthly billing of the previous Contract Year.
- 10.6.3.** Provided that the HPD 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.

**10.6.4.** Provided further that if at any time, such Letter of Credit amount falls short of the amount specified in Article 10.6.2 due to any reason whatsoever, AEML shall restore such shortfall within thirty (30) days.

**10.6.5.** AEML shall cause the scheduled bank issuing the Letter of Credit to intimate the HPD, in writing regarding establishing of such irrevocable Letter of Credit.

**10.6.6.** AEML shall ensure that the Letter of Credit shall be renewed not later than its expiry. All costs relating to opening and maintenance of the Letter of Credit shall be borne by HPD.

**10.6.7.** If AEML fails to pay undisputed Monthly Bill or Supplementary Bill or part thereof within and including the Due Date, then, subject to Article 10.6.5, the HPD may draw upon the Letter of Credit, and accordingly the bank shall pay without any reference or instructions from AEML, an amount equal to such Monthly Bill or Supplementary Bill or part thereof, if applicable, in accordance with Article 10.6.3 above, by presenting to the scheduled bank issuing the Letter of Credit, the following documents:

- a. a copy of the Monthly Bill or Supplementary Bill which has remained unpaid to HPD and;
- b. a certificate from the HPD 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;

**10.6.8.** The HPD shall not draw LC on Disputed Bill or disputed amount.

#### **B. Payment Security Fund –**

**10.6.9.** AEML shall set up a Payment Security Fund in order to ensure timely payment to the HPD. This fund will have a corpus to cover 3 (three) months' payment.

#### **10.7. Disputed Bill**

**10.7.1.** If the AEML does not dispute a Monthly Bill or a Supplementary Bill raised by the HPD within fifteen (15) days of receiving such Bill shall be taken as conclusive.

- 10.7.2.** If AEML disputes the amount payable under a Monthly Bill or a Supplementary Bill, as the case may be, it shall pay undisputed amount 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:
- the details of the disputed amount;
  - its estimate of what the correct amount should be;
  - and all written material in support of its claim.
- 10.7.3.** If the HPD agrees to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.7.2, the HPD 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.
- 10.7.4.** If the HPD does not agree to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.7.2, it shall, within fifteen (15) days of receiving the Bill Dispute Notice, furnish a notice (Bill Disagreement Notice) to the AEML providing:
- reasons for its disagreement;
  - its estimate of what the correct amount should be; and
  - all written material in support of its counter-claim.
- 10.7.5.** Upon receipt of the Bill Disagreement Notice by the AEML under Article 10.7.4, authorized representative(s) or a director of the board of directors/ member of board of the AEML and HPD shall meet and make best endeavours to amicably resolve such dispute within fifteen (15) days of receipt of the Bill Disagreement Notice.
- 10.7.6.** If the Parties do not amicably resolve the Dispute within fifteen (15) days of receipt of Bill Disagreement Notice pursuant to Article 10.7.4, the matter shall be referred to Dispute resolution in accordance with Article 16.
- 10.7.7.** For the avoidance of doubt, it is clarified that despite a Dispute regarding an Invoice, AEML shall, without prejudice to its right to Dispute, be under an obligation to make payment of undisputed amount of the Monthly Bill.

## 10.8. Quarterly and Annual Reconciliation

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

**10.8.2.** 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 HPD and AEML shall jointly sign such reconciliation statement. Within fifteen (15) days of signing of a reconciliation statement, the HPD 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.

## 10.9. Payment of Supplementary Bill

**10.9.1.** HPD may raise a ("Supplementary Bill") for payment on account of:

- a. Adjustments required by the Energy Accounts (if **applicable**); or
- b. Change in Law as provided in Article 12, or
- c. Supplementary Bill shall be paid by the other Party.

**10.9.2.** AEML shall remit all amounts due under a Supplementary Bill raised by the HPD to the HPD's Designated Account by the Due Date. For such payments by AEML, Rebate as applicable to Monthly Bills pursuant to Article 10.5 shall equally apply, except in the case of payment of Late Payment Surcharges, Change in Law relating to taxes, duties, cess etc.

**10.9.3.** 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 10.4.

## ARTICLE 11: FORCE MAJEURE

### 11.1. Definitions

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

### 11.2. Affected Party

An affected Party means AEML or the HPD whose performance has been affected by an event of Force Majeure.

### 11.3. Force Majeure

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.

### 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 Events

## ARTICLE 12: CHANGE IN LAW

### 12.1. Definitions

In this Article 12, the following terms shall have the following meanings:

**12.1.1.** "Change in Law" means the occurrence of any of the following events after the last date of bid submission resulting into any additional recurring/ non-recurring expenditure by the HPD or any income to the HPD:

- a. the enactment, coming into effect, adoption, promulgation, amendment, modification or repeal (without re-enactment or consolidation) in India, of any Law, including rules and regulations framed pursuant to such Law;
- b. a change in the interpretation or application of any Law by any Indian Governmental Instrumentality having the legal power to interpret or apply such Law, or any Competent Court of Law;
- c. the imposition of a requirement for obtaining any Consents, Clearances, Permits and/or licenses which was not required earlier;
- d. a change in the terms and conditions prescribed for obtaining any Consents, Clearances and Permits or the inclusion of any new terms or conditions for obtaining such Consents, Clearances and Permits; except due to any default of the HPD;
- e. any statutory change in tax structure i.e. change in rates of taxes, duties and cess, or introduction of any new tax made applicable for setting up of Hybrid Power Project and supply of power by the HPD and has direct effect on the Project, shall be treated as per the terms of this Agreement.

**12.1.2.** But the above shall not however include (i) any change in taxes on corporate income or any withholding tax on income or dividends distributed to the shareholders of the HPD or (ii) Custom duty on imported equipment, or (iii) any change on account of regulatory measures by the Appropriate Commission.

### 12.2. Relief for Change in Law

**12.2.1.** In the event a Change in Law results in any adverse financial loss/ gain to the HPD then, in order to ensure that the HPD 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 HPD shall be entitled to compensation by the other party, as the case may be, subject to



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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 MERC.

- 12.2.2.** The decision of the MERC 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. HPD Event of Default

**13.1.1.** The occurrence and / or continuation of any of the events subject to Article 4.1 or / and following events , unless any such event occurs as a result of a Force Majeure Event or a breach by AEML of its obligations under this Agreement, shall constitute a HPD Event of Default:

- a. the failure to commence supply of power to AEML up to the Contracted Capacity by the end of the period specified in Article 4, or if
  - the HPD 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
  - the HPD 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.
    - i. 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
    - ii. is to a transferee who assumes such obligations under this Agreement and the Agreement remains effective with respect to the transferee;
- b. If
  - the HPD 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
  - any winding up or bankruptcy or insolvency order is passed against the HPD, or
  - the HPD 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 HPD will not be a HPD Event of Default if such dissolution or liquidation is for the purpose of a merger, consolidation or reorganization and where the resulting company retains creditworthiness similar to the HPD and expressly assumes all obligations of the HPD under this Agreement and is in a position to perform them; or

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

### **13.2. AEML 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 HPD of its obligations under this Agreement, shall constitute the Event of Default on the part of defaulting AEML:

- a. AEML fails to pay (with respect to a Monthly Bill or a Supplementary Bill), subject to Article 10.7, for a period of ninety (90) days after the Due Date and the HPD is unable to recover the amount outstanding to the HPD through the Letter of Credit/Payment Security Fund,
- b. AEML repudiates this Agreement and does not rectify such breach even within a period of sixty (60) days from a notice from the HPD in this regard; or
- c. except where due to any HPD's failure to comply with its obligations, AEML is in material breach of any of its obligations pursuant to this Agreement, and such material breach is not rectified by AEML within sixty (60) days of receipt of notice in this regard from the HPD to AEML; or if
  - AEML 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 AEML, or
  - AEML 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 AEML Event of Default, where such dissolution or liquidation of AEML or AEML 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 AEML and expressly assumes all obligations of AEML and is in a position to perform them; or;
- d. Occurrence of any other event which is specified in this Agreement to be a material breach or default of AEML.

### **13.3. Procedure for cases of HPD Event of Default**

- 13.3.1.** Upon the occurrence and continuation of any HPD Event of Default under Article 13.1, AEML shall have the right to {but not an obligation} deliver to the HPD, with a copy to the representative of the lenders to the HPD with whom the HPD has executed the Financing Agreements, a notice stating its intention to terminate this Agreement (AEML 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 AEML Preliminary Default Notice, the Consultation Period of sixty (60) 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.
- 13.3.3.** 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 HPD Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, AEML shall have the right (but not an obligation) to terminate this Agreement by giving a written Termination Notice of thirty (30) days to the HPD.
- 13.3.5.** Subject to the terms of this Agreement, upon occurrence of a HPD Event of Default under this Agreement, the lenders in concurrence with AEML, may exercise their rights, if any, under Financing Agreements, to seek substitution of the HPD by a selectee for the residual period of the Agreement, for the purpose of securing the

payments of the total debt amount from the HPD and performing the obligations of the HPD. However, in the event the lenders are unable to substitute the defaulting HPD within the stipulated period, AEML may terminate the PPA and 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. Provided that any substitution under this Agreement can only be made with the condition that the selectee meets the eligibility requirements of Request for Selection (RfS) issued by AEML and accepts the terms and conditions of this Agreement.

**13.3.6.** The lenders, in concurrence with AEML, 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 HPD shall cooperate with the AEML to carry out such substitution and shall have the duty and obligation to continue to operate the Power Project in 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 HPD to AEML.

**13.3.7.** In the event the lenders are unable to substitute the defaulting HPD within the stipulated period, AEML may terminate the PPA and 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 AEML Event of Default**

**13.4.1.** Upon the occurrence and continuation of any AEML Event of Default specified in Article 13.2 the HPD shall have the right to deliver to AEML a HPD 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 HPD Preliminary Default Notice, the Consultation Period of sixty (60) 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 and ten (210) days following the expiry of the Consultation Period and unless the Parties shall have otherwise agreed to the contrary or AEML Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, AEML and the HPD shall, subject to the prior consent of the HPD, 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 HPD, or if no offer of novation is made by AEML within the stipulated period, then the HPD may terminate the PPA and at its discretion require AEML to either

- a. takeover the Project assets by making a payment of the termination compensation equivalent to the amount of the debt due and the 150% (one hundred and fifty per cent) of the adjusted equity or,
- b. pay to the HPD, 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 HPD.

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 HPD. 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 AEML.

### **13.5. Termination due to Force Majeure**

**13.5.1.** If the Force Majeure Event or its effects continue to be present beyond the 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.

## ARTICLE 14: LIABILITY AND INDEMNIFICATION

### 14.1. Indemnity

**14.1.1.** The HPD shall indemnify, defend and hold AEML harmless against:

- a. any and all third party claims against AEML 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 HPD 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 AEML from third party claims arising by reason of a breach by the HPD of any of its obligations under this Agreement (provided that this Article 14 shall not apply to such breaches by the HPD, for which specific remedies have been provided for under this Agreement).

**14.1.2.** AEML shall indemnify, defend and hold the HPD harmless against:

- a. any and all third party claims against the HPD, 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 AEML 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 HPD from third party claims arising by reason of a breach by AEML of any of its obligations.

### 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 seeking adjudication of 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, 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 HPD nor AEML 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, strict liability, contract, breach of statutory duty, operation of law or otherwise.

**14.4.2.** AEML shall have no recourse against any officer, director or shareholder of the HPD or any Affiliate of the HPD or any of its officers, directors or shareholders for such claim excluded under this Article. The HPD shall have no recourse against any officer, director or shareholder of AEML, or any affiliate of AEML or any of its officers, directors or shareholders for such claims excluded under this Article.

#### **14.5. AEML Liability**

**14.5.1.** AEML shall discharge the Tariff payment obligation in terms of the provision of this Agreement;

#### **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

- 15.1.1.** 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 other than by mutual consent between the Parties to be evidenced in writing. Such assignment shall be agreed to by AEML 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.
- 15.1.2.** Provided that, AEML shall permit assignment of any of HPDs rights and obligations under this Agreement in favour of the lenders to the HPD, if required under the Financing Agreements.
- 15.1.3.** Provided that, such consent shall not be withheld by the HPD if AEML seeks to transfer to any affiliate all of its rights and obligations under this Agreement.
- 15.1.4.** 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.
- 15.1.5.** An amount of Rs. 5 Lakh per Transaction + 18% GST as Facilitation Fee (non-refundable) shall be deposited by the HPD to AEML. Provided further that, such consent shall not be withheld by the HPD if AEML seeks to transfer to any affiliate all of its rights and obligations under this Agreement.
- 15.1.6.** 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 HPD to AEML.

### 15.2. Permitted charges

- 15.2.1.** HPD 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. However, the HPD may create any encumbrance over all or part of the receivables, payment mechanism, or the RFS Documents in favour of the Project Lenders or Lender's Representative on their behalf, as security for their debt under the Financing Agreements.

## 15.2.2. 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 Mumbai.

### 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. 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 (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 16.2.1 (i) if the other Party does not furnish any counter claim or defence under Article 16.2.1 (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 endeavor and make all efforts 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 (a) arises from a 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, or (b) relates to any matter agreed to be referred to the Appropriate Commission, or

(c) any dispute arising out of or in connection with this agreement not covered in (a) and (b) above, such Dispute shall be submitted to adjudication by the MERC.

- ii. AEML shall be entitled to co-opt the lenders (if any) as a supporting party in such proceedings before the MERC.

### **16.3.2. Dispute Resolution through Arbitration**

- i. If the Dispute arises out of or in connection with any claims 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. If there is no majority, the award will be given by the presiding Arbitrator.
- vi. AEML shall be entitled to co-opt Buying Utilities 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 MERC or the Arbitration Tribunal to which the dispute may be referred by the MERC, 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. Subject to the provisions of Clause 3.12 of the RfS Document and Article 3 (e) of this Agreement and keep this Agreement as principle Agreement, both Parties may execute further Agreement on similar terms and conditions.

### 17.2. Third Party Beneficiaries

**17.2.1.** This Agreement is solely for the benefit of the Parties and their respective successors, 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 authorized 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 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 HPD, 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 AEML, 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:

Address:

Attention:

Email:

Fax No.:

Telephone No.:

**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.

#### **17.9. Taxes and Duties**



**17.9.1.** The HPD shall bear and promptly pay all statutory taxes, duties, levies and cess, assessed/ levied on the HPD, contractors or their employees that are required to be paid by the HPD 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.** AEML shall be indemnified and held harmless by the HPD against any claims that may be made against AEML in relation to the matters set out in Article 17.9.1.

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

#### **17.10. Independent Entity**

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

**17.10.2.** Subject to the provisions of the Agreement, the HPD shall be solely responsible for the manner in which its obligations under this Agreement are to be performed. All employees and representatives of the HPD or contractors engaged by the HPD in connection with the performance of the Agreement shall be under the complete control of the HPD and shall not be deemed to be employees, representatives, contractors of AEML and nothing contained in the Agreement or in any Agreement or Contract awarded by the HPD shall be construed to create any contractual relationship between any such employees, representatives or contractors and AEML.

#### **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. 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.

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  
(AEML)

Name, Designation and Address

(Signature with Seal)

Witness

1.

2.

For and on behalf of  
(Insert name of HPD)

Name, Designation and Address

(Signature with Seal)

Witness

1.

2.