

**STANDARD
POWER PURCHASE AGREEMENT (PPA) FOR
PROCUREMENT OF ... kW SOLAR POWER**

BETWEEN

[Insert Name of Solar Power Developer]

AND

[Insert Name of Buying Entity]

AND

New & Renewable Energy Development Corporation of Andhra Pradesh Limited

This Power Purchase Agreement (PPA) is executed on _____ (date), _____ (month), _____ (year) at < location>

Among

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

And

..... [Insert name of the Buying Entity], a company incorporated under the Companies Act 1956 or Companies Act 2013, having its registered office at [Insert address of the registered office of Buying Entity] (hereinafter referred to as “**Buying Entity**” or “**Purchaser**” which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and assignees) as a Party of the **Second Part**;

And

New & Renewable Energy Development Corporation of Andhra Pradesh Ltd., a company incorporated under the Companies Act 1956 or Companies Act 2013, having its registered office at 12-464/5/1, River Oaks Apartment, CSR Kalyana Mandapam Road, Tadepalli, Guntur District, Pin :522501 (hereinafter referred to as “**Nodal Agency**” or “**Authorised Representative**” which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and assignees) as a Party of the **Third Part**;

The Purchaser, Power Producer and Nodal Agency are each individually referred to as a **Party** and collectively as the **Parties**.

WHEREAS:

- i. NREDCAP (New & Renewable Energy Development Corporation of Andhra Pradesh Ltd.) had initiated a Tariff Based Competitive Bid Process for Selection of Solar Power Developers for setting up Grid-Connected Rooftop Solar PV Projects under RESCO Mode on the terms and conditions contained in the Request for Selection (hereinafter referred to as “RfS”) vide RfS No. ___ dated ____.
- ii. NREDCAP has issued the Letter of Award No. dated in favour of the ___ [Insert name of the Power Producer] for development and establishment of the ... kW Rooftop Solar Project in the ___ as per terms and conditions contained in the RfS, draft of this Power Purchase Agreement circulated at the time of the bidding and other bidding documents as well as the conditions contained in the Letter of Award.
- iii. SPD is engaged in the business of design, supply, erection, testing, commissioning, operating and maintenance of power plants, including grid connected rooftop power projects.
- iv. SPD has agreed to install and operate a solar photovoltaic power plant of ___ kW capacity at

the Premises after due inspection of the Premises as defined hereinafter and supply the entire Solar Power of the Project to Purchaser on the terms and conditions contained in this Agreement. The Purchaser has agreed to purchase the entire Solar Power of the Project on the terms and conditions contained in this Agreement.

- v. The Buying Entity has agreed to purchase the entire Solar Power of the Project on the terms and conditions contained in this Agreement.
- vi. SPD has furnished a Performance Bank Guarantee (PBG)/ Insurance Surety Bond of Rs. _____ in favour of NREDCAP in accordance with the tender conditions.

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

1. Definitions and Interpretation

1.1 Definitions

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

- (a) **Actual Monthly Production** means the amount of energy recorded by the Main Metering System during each calendar month of the Term, pursuant to Section 5.2.
- (b) **Affiliate** means with respect to any specified Person, any other Person, directly or indirectly controlling, controlled by or under common control with such specified Person.
- (c) **Agreement** means this Power Purchase Agreement executed hereof, including the schedules, amendments, modifications and supplements made in writing by the Parties from time to time.
- (d) **Applicable Law** means, with respect to any Person, any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, guideline, Governmental Approval, consent or requirement or any Governmental Authority in India having jurisdiction over such Person or its property, enforceable by law or in equity, including the interpretation and administration thereof by such Governmental Authority.
- (e) **Business Day** means any day other than Sunday or any other day on which banks in Andhra Pradesh are required or authorized by Applicable Law to be closed for business.
- (f) **Commercial Operation Date** has the meaning set forth in Section 4.3(b)
- (g) **Consents, Clearances and Permits** shall mean all authorization, licenses, approvals, registrations, permits, waivers, privileges, acknowledgements, agreements or concessions required to be obtained from or provided by any concerned authority for the purpose of setting up of the generation facilities and / or supply of power.
- (h) **Deemed Generation** has the meaning set forth in Section 5.3 (c).
- (i) **Delivery Point** shall be the single point, at a location mutually agreed by the Parties, in line with applicable regulation/ rules where Solar Power is delivered by the Power Producer from the System to the Purchaser.
- (j) **Dispute** has the meaning set forth in Section 17
- (k) **Designated Account** means:
 - a. Where there is no Financing Party, the account designated by the Power Producer from time to time; and
 - b. Where there is a Financing Party, the account established by the Power Producer at the instance of such Financing Party for the deposit of the cash flows and receivables of the Power Producer, as intimated to the Purchaser by such Financing Party.
- (l) **Disruption Period** has the meaning set forth in Section 5.3 (c).
- (m) **Distribution Utility** means the local electric distribution owner and operator providing electric distribution and interconnection services to Purchaser at the Premises.

- (n) **Due Date** has the meaning set forth in Section 7.5
- (o) **Effective Date** has the meaning set forth in Section 2.
- (p) **Expiration Date** means the date on which the Agreement terminates by reason of expiration of the Term.
- (q) **Financing Party** means any Person who has made or will make a loan to or otherwise provide financing to the Power Producer (or an Affiliate of the Power Producer) with respect to the System.
- (r) **Force Majeure Event** has the meaning set forth in Section 11.1
- (s) **Governmental Approval** means any approval, consent, franchise, permit, certificate, resolution, concession, license or authorization issued by or on behalf of any applicable Governmental Authority for the purpose of setting up of the Project and / or for sale and purchase of Solar Power of the Project pursuant to the Agreement.
- (t) **Governmental Authority** means any central, state, regional, district, town, city or municipal government, whether domestic or foreign, or any department, agency, bureau, or other administrative, regulatory or judicial body of any such government.
- (u) **Indemnified Persons** means the Purchaser Indemnified Parties or the Power Producer Indemnified Parties, as the context requires.
- (v) **Insolvency Event** means with respect to a Party, that either
 - (a) Such party has (A) applied for or consented to the appointment of or the taking of possession by a receiver, custodian, trustee, administrator, liquidator on the likes of itself or of all or a substantial part of its assets or business; (B) been unable to pay its debts as such debts become due; (C) made a general assignment for the benefit of its creditors, (D) commenced a voluntary proceeding under any insolvency or bankruptcy law; (E) filed a petition seeking to take advantage of any other law relating to the bankruptcy, insolvency, reorganization, winding up or composition or readjustment of debts; or (F) taken any corporate or other action for the purpose of effecting any of the foregoing; or
 - (b) It is clarified that a dissolution or liquidation will not be an Insolvency Event if such dissolution or liquidation is for the purpose of a merger, consolidation or reorganization, and the resulting company retains credit worthiness similar to the dissolved or liquidated entity and expressly assumes all obligations of the dissolved and liquidated entity under this Agreement and is in a position to the perform them.
- (w) **Installation Work** means the construction and installation of the System and the Start-up, testing and acceptance (but not the operation and maintenance) thereof; all performed by or for the Power Producer at the Premises.
- (x) **Invoice Date** has the meaning set forth in Section 7.3
- (y) **Losses** means all losses, liabilities, claims, demands, suits, causes of action, judgments, awards, damages, cleanup and remedial obligations, interest, fines, fees, penalties, costs and expenses (including all attorneys' fees and other costs and expenses incurred in defending any such claims or other matters or in asserting or enforcing and indemnity obligation).
- (z) **Main Metering System** means all meter(s) and metering devices owned by the Power Producer and installed at the Delivery Point for measuring and recorded the delivery and receipt of energy.
- (aa) **Metering Date** means the first Business day of each calendar month subsequent to the month in which the Solar Power is generated by the Power Producer. The billable units shall be equal to the difference between the meter reading on the Metering Date and the meter reading on the previous

- month's Metering Date.
- (bb) **Nodal Agency**: "Nodal Agency means NREDCAP, responsible for tendering, LOA issuance, and coordination, and entitled to receive service charge from the Power Producer."
 - (cc) **NREDCAP Service Charge**: "INR 0.10 per kWh (sold by SPD to Purchaser) payable monthly by the SPD to NREDCAP, included within the Tariff."
 - (dd) **Party or Parties** has the meaning set forth in the preamble to this Agreement.
 - (ee) **Performance Ratio (PR)** means the ratio of plant output versus installed plant capacity at any instance with respect to the radiation measured. PR (Measured output in kW / Installed plant capacity in kW* 1000 W/m² / Measured radiation intensity in W/m²).
 - (ff) **Person** means an individual, partnership, corporation, Limited Liability Company, business trust, Joint Stock Company, trust, unincorporated association, joint venture, firm, or other entity, or a Governmental Authority.
 - (gg) **Power Producer Default** has the meaning set forth in Section 12.1 (a)
 - (hh) **Power Producer Indemnified Parties** has the meaning set forth in Section 16.2
 - (ii) **Premises** means the premises described in Schedule 1 to this Agreement. For the avoidance of doubt, the Premises include, the entirety of any and underlying real property located at the address described in Schedule 1 to this Agreement.
 - (jj) **Purchaser Default** has the meaning set forth in Section 12.2 (a)
 - (kk) **Purchaser Indemnified Parties** has the meaning set forth in Section 16.1
 - (ll) **Scheduled Completion Date** is 90 (Ninety) days from the Effective Date, unless extended due to Force Majeure or Purchaser Default. If mutually agreed in writing, SCD may be referenced from the LOA date .
 - (mm) **Security Interest** means any form of mortgage, lien, pledge, assignment by way of security, charge, hypothecation, security interest, title retention or any other security agreement or arrangement having the effect of conferring security.
 - (nn) **Selectee** means, a new company (i) proposed by the Financing Parties pursuant to Section 12.1 read with Schedule IV hereof and approved by the Purchaser or (ii) proposed by the Purchaser in accordance with to Section 12.1 read with Schedule IV hereof and approved by the Financing Parties, for substituting the Power Producer for the residual period of the Agreement by amendment of the Agreement or by execution of a fresh power purchase agreement in accordance with the terms and conditions contained in the said Schedule.
 - (oo) **Solar Power** means the supply of electrical energy output from the System.
 - (pp) **Solar Power Payment** has the meaning set forth in Section 7.2
 - (qq) **System** includes the integrated assembly of photovoltaic panels, mounting, assemblies, inverters, converters, metering, lighting fixtures, transformers, ballasts, disconnects, combiners, switches, wiring devices and wiring, and all other material comprising the Installation Work.
 - (rr) **System Operations** means the Power Producer's operation, maintenance and repair of the System performed in accordance the requirement herein.
 - (ss) **Tariff** means the price per kWh as per Section 7
 - (tt) **Term** has the meaning set forth in Section 3.1.

1.2 Interpretation

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

2. Effective Date

This Agreement shall be effective from the date of signing of this Agreement.

3. Terms and Termination

3.1 Term

The term of the Agreement shall commence on the Effective Date and shall continue for twenty-five (25) years from the Commercial Operation Date (the **Term**), unless and until terminated earlier pursuant to the provisions of the Agreement. Except as expressly provided elsewhere in this Agreement, upon completion of the full twenty-five (25)-year Term from the Commercial Operation Date, ownership of the System shall transfer to the Purchaser free of cost.

3.2 Conditions of the Agreement prior to installation

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

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

4. Construction, Installation, Testing and Commissioning of the System

4.1 Installation Work

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

Delivery Point to ensure synchronization and drawl of power from System.

- i. If the Power Producer is unable to commence supply of Solar Power to the Purchaser by the Scheduled Completion Date, other than for the reasons specified in Article 11 and 12.2 (Force Majeure or Purchaser Default) or on account of a Purchaser Act, the Power Producer or its contractor shall pay to Purchaser genuine pre-estimated liquidated damages for the delay in such commencement of supply of Solar Power as per the clause of the NREDCAP's RfS appended as Schedule III to this Agreement.
- j. The Purchaser shall ensure that all arrangements and infrastructure for receiving Solar Power beyond the Delivery Point are ready on or prior to the Commercial Operation Date and is maintained in such state in accordance with Applicable Law through the Term of the Agreement.
- k. Power Producer shall fulfill all obligations undertaken by it under this Agreement.

4.2 Approvals and Permits

Each of the Parties shall assist the other Party in obtaining all necessary Government Approvals, third party approvals and permits including but not limited to those listed in Schedule II hereto and any waivers, approvals or releases required pursuant to any applicable CCR.

4.3 System Acceptance Testing

- (a) The Power Producer shall give fifteen (15) days advance notice to conduct the testing of the Project and shall conduct testing of the Project in the presence of Purchaser's designated representative in accordance with procedure as approved by NREDCAP/ Purchaser.
- (b) If the results of such testing indicate that the System is capable of generating electric energy (at full rated kW) for 5 continuous hours using such instruments and meters as have been installed for such purposes, then the Power Producer shall send a written notice to Purchaser to that effect, and the date of successful conducting such tests and injection of Solar Power at Delivery Point shall be the **Commercial Operation Date**.

5. System Operations

5.1 The Power Producer as Owner and Operator

The System will be legally and beneficially owned by the Power Producer and / or the Financing Party(ies) and will be operated and maintained and, as necessary, repaired by the Power Producer at its sole cost and expense. Replacement of spare parts if any shall be responsibility of Power Producer for the complete period of Agreement. If any repair or maintenance costs incurred by the Power Producer as a result of Purchaser's breach of its obligations, the same shall be reimbursed in full by Purchaser. The System shall not attach to, or be deemed a part of, or fixture to, the

Premises.

The Purchaser covenants that it shall place all parties having an interest in or Security Interest upon the real property comprising the Premises on notice of (i) the license of the Power Producer with respect to the Premises, and (ii) the ownership of the System and the legal status the System as the exclusive property of the Power Producer (or the Financing Parties). If there is any Security Interest created or granted upon the Premises which could reasonably be construed as attaching to the System as a fixture of the Premises, Purchaser shall forthwith procure a release from the holders of such Security Interest.

Power Producer shall not be responsible for any work done by others on any part of the System/Project authorized by the Purchaser and not authorized in advance by the Power Producer in writing. Power Producer shall not be responsible for any loss, damage, cost or expense arising out of or resulting from improper operation or maintenance of the System by Purchaser or anyone instructed to do such work by Purchaser. In the event of a problem with the System, as a result of the Purchaser actions, for which Power Producer is not responsible as provided in this Agreement, Purchaser may choose and pay Power Producer for diagnosing and correcting the problem at Power Producer or Power Producer's contractors standard rates and charges then in effect.

5.2 Metering

- a. The Power Producer shall install the Main Metering System with due certification at the Delivery Point for the measurement of electrical energy produced by the System.
- b. The meter will be read by Power Producer's personnel on the Metering date. The authorized representative of the Purchaser shall be present at the time of meter reading. Both the Parties (Power Producer & Purchaser) shall sign a joint meter reading report. However, in case the Joint meter reading report is not signed in the first three business days of any month due to non-availability of the Purchaser's authorized representative, the report signed by the Power Producer shall be considered as Joint Meter Reading Report. The Parties agree that such Joint meter reading Report shall be final and binding on the Parties.
- c. The Main Metering System at the Delivery Point and any additional meters required by Applicable Law shall be tested, maintained and owned by the Power Producer.
- d. The Power Producer shall connect the Solar output to the existing system of the Purchaser as per the requirements and guidelines of the state DISCOM.
- e. The Purchaser may, at its own discretion, install a check meter, at its cost, to verify the measurements of the Main Metering System.
- f. The title to the Solar Power supplied by the Power Producer shall pass to the Purchaser at the Delivery Point.

- g. The Purchaser shall be responsible for any required load enhancement.

5.3 System Disruptions

- a. **Availability of premises:** Purchaser will provide full access of the Premises to Power Producer for installation, operation and maintenance of the System during the period of Agreement. Purchaser will also provide access of the Premises to Power Producer as required for operation and maintenance of the System. If, for reasons other than the Power Producer's breach of its obligations herein, the Power Producer ceases to have access rights to the Premises as necessary to operate and maintain the System prior to the Expiration Date, then the Power Producer shall be entitled to terminate this Agreement. The Purchaser shall also provide access to the Premises after the termination of this Agreement for the purpose of removal of the System from the Premises.
- b. Purchaser will not provide/construct any structure within its Premises or around its Premises which shades the solar panels affecting the generation of the Solar Power during the Term.
- c. **Roof Repair and other System Disruptions:** In the event that (a) the Purchaser repairs the Premises' roof for any reason not directly related to damage, if any, caused by the System, and such repair required the partial or complete temporary disassembly or movement of the System, or (b) any act or omission of Purchaser or Purchaser's employees, Affiliates, agents or subcontractors (collectively, a **Purchaser Act**) result in a disruption or outage in System production (except a Force Majeure Event), then, in either case , Purchaser shall (i) pay the Power Producer for all work required by the Power Producer to disassemble or move the System and re-assemble the system after completion of the repair work and (ii) continue to make all payments for the Solar Power during such period of System disruption (the **Disruption Period**). For the purpose of calculating Solar Power Payments and lost revenue for such Disruption Period, Solar Power shall be deemed to have been produced at the average rate over the preceding twelve (12) months of operation or, if the disruption occurs within the first twelve (12) months of operation, the average over such period of operation (**Deemed Generation**). Power Producer shall inform about the disruption or outage in System production, for reasons attributable to Purchaser in writing with date and time of such occurrences, and Purchaser's liability shall start from the date of intimation of disruption or outage in System production on account of Purchaser.

6. Delivery of Solar Power

6.1 Purchaser Requirement

Purchaser agrees to purchase one hundred percent (100%) of the Solar Power generated by the System and made available by the Power Producer to Purchaser at the Delivery Point during each relevant month of the Term. Other than as provided elsewhere in this Agreement, in the event that the Purchaser is unable to off take 100% of the electricity generated, when it is generated then Deemed Generation will apply. Moreover, Deemed Generation shall also be applicable: (a) if any part of the capacity of the Solar Power Plant is unable to operate at full capacity due to non-

availability of load, subjected to furnishing of documentary evidence in support of the same; or (b) in the event SPD is generating power more than the available load, and the Buying Entity is not able to export or record the excess units generated due to faults in the equipments of Buying Entity e.g., Net meter Cables, Equipments etc., which may stop the feeding/record of the Solar Power generated.

6.2 Right to Contracted Capacity and Energy

The SPD will be allowed to revise the CUF of the Project once within first year after COD. Subsequent to commissioning of the Project, if for any Contract Year, except for the Contract Year ending on 31st March immediately after COD of the Project, it is found that the SPD has not been able to supply minimum energy ofMillion kWh (MU) till the end of 10 years from the SCD and Million kWh (MU) for the rest of the Term of the Agreement, on account of reasons solely attributable to the SPD, the noncompliance by SPD shall make the SPD liable to pay the compensation which shall be calculated as 50% of the PPA tariff, for the shortfall in energy terms. This compensation shall not be applicable in events of Force Majeure identified under this Agreement affecting supply of Solar Power by SPD.

6.3 Suspension of Delivery

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

7. Tariff and Payments

7.1 The Power Producer shall be entitled to receive the Tariff of Rs. ___/kWh [Insert the Tariff discovered through the bidding process conducted by NREDCAP], fixed for the entire term of this Agreement. The Tariff includes INR 0.10/kWh plus applicable GST payable by the Power Producer to NREDCAP as a service charge.

7.2 Consideration

Purchaser shall pay to the Power Producer a monthly payment (the **Solar Power Payment**) for the Solar Power generated by the System as per the Metering clause 5.2 (b) above during each calendar month of the Term equal to the actual Monthly Production as recorded in Joint Meter Reading Report for the System for the relevant month multiplied by the Tariff irrespective of (i) whether any or all units of Solar Power has been drawn, consumed or utilized by Purchaser and / or (ii) whether any Solar Power has been injected, whether inadvertently or otherwise, into the grid of the Distribution Utility. The Power Producer will bill the Purchaser for each kWh metered as above at the Delivery Point, at the Tariff Rs. ___/kWh levelized tariff as discovered through the NREDCAP bidding process.

7.3 Invoice

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

7.4 The invoice to the purchaser shall include:

- i. The Solar Power calculations for the relevant billing period.
- ii. Supporting data, documents and calculations in accordance with this Agreement.

7.5 **Time of payment**

Purchaser shall pay all amounts due hereunder within 45 days after the date of the receipt of the invoice at Purchaser's office (**Due Date**).

7.6 **Method of Payment**

Purchaser shall make all payments under the Agreement by cheque/ demand draft/ electronic funds transfer in immediately available funds to the Designated Account. All payments made hereunder shall be non-refundable, subject to the applicable tax deduction at source, and be made free and clear of any other tax, levy, assessment; duties or other charges and not subject to reduction, set-off, or adjustment of any kind. Further, if any taxes and duties are leviable currently or in future, such taxes and duties shall be paid by the Purchaser over and above the solar electricity tariff mentioned in this agreement. Such taxes and duties could include, but not restricted to Electricity Duty, Tax on Sale of Electricity (TOSE). If the Purchaser deducts any tax at source, the Purchaser will issue a tax credit certificates as per law.

7.7 **Late Payment Surcharge/ Early Payment Discount**

Late Payment Surcharge

In case payment of any Invoice is delayed by the Purchaser beyond its Due Date, a late payment surcharge shall be payable by Purchaser to the Power Producer at the rate of 1% per month (**Late Payment Surcharge**) calculated on the amount of outstanding payment, calculated on a day-to-day basis for each day of the delay, compounded on monthly rates. Late Payment Surcharge shall be claimed by the Power Producer, through its subsequent invoice.

Early Payment Discount

- i. A Rebate of 2% shall be allowed to the Purchaser for the payments made within a period of seven working days of the presentation of Invoice at Purchaser office.
- ii. Any payments made after seven working days and up to twenty-five days of the presentation of Invoice at Purchaser office shall be allowed a rebate of 1%.

7.8 Disputed Payments

In the event that the Purchaser disputes an invoice, it shall give notice of such a dispute within 15 days of receiving the invoice setting out details of the disputed amount.

The Purchaser shall pay by the Due Date 100% of any undisputed amount and in case the Invoice is disputed, the Purchaser shall pay an amount based on average consumption of last three consecutive undisputed invoices.

Where the dispute arises within three months of commencement of billing of power, or in the absence of three consecutive undisputed invoices since such commencement, average consumption shall be calculated based on the available undisputed invoices. Amount so recovered shall be subject to final adjustment on resolution of the dispute.

Thereafter, the Parties shall discuss and try to resolve the disputed amount within a week of receipt of such notice of dispute. If the Parties resolve the dispute, an appropriate adjustment shall be made in the next Invoice. If the dispute has not been resolved by the date of the next invoice the dispute shall be referred to a committee of one member from each of Purchaser and Power Producer.

Where there is any Financing Party, the dispute shall be referred to a Committee of one member from each of Purchaser and Power Producer and one member designated by the Financing Parties. If the dispute is still not resolved by the next following invoice it shall be referred to Arbitration as provided in the present Agreement.

7.9 Change in Law:

- (a) For the Purpose of this section 7.9, the term **Change in Law** shall mean the occurrence of any of the following events after the Effective date, resulting into any additional recurring / non-recurring expenditure by the Power Producer or any income to the Power Producer.
- (i) The enactment, coming into effect, adoption, promulgation, amendment, modification or repeal (without re-enactment or consolidation) in India, of any Applicable Law, including rules and regulations framed pursuant to such Applicable Law;
 - (ii) The enactment, coming into effect, adoption, promulgation, amendment, modification or repeal (without re-enactment or consolidation) of any law in any jurisdiction outside India from which a significant portion of the major equipment for the System (including solar panels) is being imported; or
 - (iii) A change in the interpretation of any Applicable Law by any Governmental Authority having the legal power to interpret or apply such Applicable Law, or any competent court; or
 - (iv) The imposition of a requirement, for obtaining any Government Approvals which was not required earlier; or

- (v) a change in the terms and conditions prescribed for obtaining any Government Approvals or the inclusion of any new terms or conditions for obtaining such Government Approvals; or
- (vi) any introduction of any tax made applicable for supply of power by the Power Producer as per the terms of this Agreement. Any benefit due to change in tax on the sale of solar energy shall be passed on to Purchaser.
- (vii) Any benefit arising due to change in above para (i) to (v) shall be passed on to the Purchaser. But not include any change in any withholding tax on income or dividends distributed to the shareholders of the Power Producer.

(b) Application and Principles for computing impact of Change in Law:

While determining the consequence of Change in Law under this Article 7.9, the Parties shall have due regard to the principle that the purpose of compensating the Party affected by such change in Law, is to restore through monthly bill payment, to the extent contemplated in this Article 7.9, the affected Party to the same economic position as if such Change in Law has not occurred and such impact shall be mutually decided in writing. The Financing Parties shall be consulted in any such decision-making on the impact of Change in Law.

(c) **Solar Power Payment:** Adjustment Payment on account of Change in Law Subject to provisions mentioned above, the adjustment in Solar Power Payment shall be effective from:

- (i) The date of adoption, promulgation, amendment, re-enactment or repeal of the Law or Change in Law; or
- (ii) The date of order/ judgment of the competent court; of tribunal or Governmental Authority if the Change in Law is on account of a change in interpretation of Law.

8. General Covenants

8.1 Power Producer's Covenants

The Power Producer covenants and agrees to the following:

- a. **Notice of Damage or Emergency:** The Power Producer shall (a) promptly notify Purchaser if it becomes aware of any damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System, (b) immediately notify Purchaser once it becomes aware of any event or circumstance that poses an imminent risk to human health, the environment, the System or the Premises.
- b. **System Condition:** The Power Producer shall take all actions reasonably necessary to ensure that

the System is capable of providing Solar Power at a commercially reasonable continuous rate: Subject to there being no Purchaser Default, the Power Producer shall provide 24 x 7 offsite / offsite monitoring and maintenance of the System throughout the period of this agreement at no additional cost.

- c. **Governmental Approvals:** While providing the Installation work, Solar Power and System Operations, the Power Producer shall obtain and maintain and secure all Governmental Approval required to be obtained and maintained and secured by the Power Producer and to enable the Power Producer to perform such obligations.
- d. The interconnection of the rooftop solar system with the network of the distribution licensee shall be made as per the technical standards for connectivity of distributed generated resources regulations .as may be notified by the competent authority. The interconnection of the rooftop solar system shall be as per the contracted load and / or respective voltage level applicable to the Purchaser as per the provisions of the guidelines issued by the competent authority.
- e. **Health and Safety:** The Power Producer shall take all necessary and reasonable safety precautions with respect to providing the Installation Work, Solar Power, and System Operations that shall comply with all Applicable Law pertaining-to the health and safety of persons and real and personal property.

8.2 Power Producer's Representatives

During the subsistence of this Agreement, the Power Producer undertakes to respond to all questions, concerns and complaints of the Purchaser regarding the System in a prompt and efficient manner.

The Power Producer designates the following individual as its representative pertaining to performance of this Agreement till the Commercial Operation Date:

Name: _____ Telephone: _____ Email: .

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

Name: _____ Telephone: _____ Email: .

8.3 Purchaser's Covenants

Purchaser covenants and agrees to the following:

- (a) **Notice of Damage or Emergency:** Purchaser shall promptly notify the Power Producer if
 - I. it becomes aware of any damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System;

- II. it becomes aware of any event or circumstance that poses an imminent risk to human health, the environment, the System or the Premises.
- (b) **Security Interest:** Purchaser shall not directly or indirectly cause, create, incur, assume or suffer to exist any Security Interest on or with respect to the System. If Purchaser breaches its obligations under this Clause, it shall immediately notify the Power Producer in writing, and shall promptly cause such Security Interest to be discharged and released of record without any cost to the Power Producer, shall procure the execution of all documentation between the Purchaser, the existing holders of such Security Interest and the Power Producer recording the release of such Security Interest, and shall indemnify the Power Producer against all costs and expenses (including reasonable attorneys' fees and court costs) incurred in discharging and releasing such Security Interest.
- (c) **Consents and Approvals:** Purchaser shall ensure that any authorizations required of Purchaser under this Agreement, including those required for installation of System at the Premises and to drawl consume Solar Power are provided in a timely manner. The Purchaser shall cooperate with the Power Producer to obtain such approvals, permits, rebates or other financial incentives.
- (d) **Access to Premises Grant of License:** Purchaser hereby grants to the Power Producer a license co-terminus with the Term, containing all the rights necessary for the Power Producer to use portions of the Premises for the installation, operation and maintenance of the System pursuant to the terms of this Agreement, including ingress and egress rights to the Premises for the Power Producer and its employees and authorized representatives and access to electrical panels and conduits to interconnect or disconnect the System with the Premises electrical wiring with the consent and approval of the Purchaser's authorized representative identified by the Purchaser. Photo IDs will be provided by the Power Producer. Power Purchaser will assist in availing permissions to the site.
- (e) **Security:** Purchaser shall be responsible for maintaining the physical security of the Premises. In spite of these measures, if any damages to the System takes place due to theft or vandalism then the same shall be claimed or reimbursed through insurances by Power producer. In case of theft and vandalism acts, the Purchaser will assist the Power Producer in procedures of filing FIRs, insurance claims and any other related activities. Whenever, the damages to the System occurs (except due to negligence of Power Producer) then the same shall be jointly assessed by the Parties and a severity level will be decided, which will further decide the duration offered to the Power Producer to correct the damage, and no amount will be paid to Power Producer for such a period. Power Producer shall be entitled to any insurance proceeds received for damages in this clause. Purchaser will not conduct activities on, in or about the Premises that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System. If System is damaged due to any such activity or through any other agency contracted by the Purchaser directly or indirectly, such damage will be borne by the Purchaser.
- (f) Regardless of whether Purchaser is owner of the Premises or leases the Premises from a landlord, Purchaser hereby covenants that (a) the Power Producer shall have access to the Premises and

System during the Term of this Agreement, and where the System is required to be removed from the Premises, up to the date of removal of the System from the Premises within the timelines set out in this Agreement, as the case may be, (b) neither Purchaser nor Purchaser's landlord will interfere or handle any of the Power Producer's equipment or the System without written authorization from the Power Producer, and (c) the Purchaser shall procure that the Purchaser's landlord acknowledges, in writing, the license granted and the exclusive rights of the Power Producer (and the Financing Parties) to the System, and confirms that it has no claims in relation to the System.

- (g) **Temporary storage space during installation or removal:** Purchaser shall provide sufficient space at the Premises for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary Construction, trailers and facilities reasonably necessary during the Installation Work, System Operations or System Removal, and access for rigging and material handling.
- (h) **Sunlight Easements:** Purchaser will take all reasonable actions as necessary to prevent other building, structures or flora from overshadowing or otherwise blocking access of sunlight to the System, including but not limited to such actions as may be reasonably necessary to obtain a solar access easement for such purpose.
- (i) **Evacuation:** Purchaser shall offtake 100% of the Solar Power generated from the Delivery Point, and pay all invoices raised by the Power Producer under this Agreement by the Due Date and pay interest on delayed payments, if any, as per this Agreement.
- (j) **Water:** Power Purchaser at zero cost shall arrange Raw Water at a given point as per the requirements of the Power Producer, for periodic cleaning of the solar panels (___liters - twice a month).
- (k) **Auxiliary Power:** The Purchaser shall provide sufficient auxiliary power to the Power Producer for the maintenance and operation of its system, if available and possible, at the rate Purchaser is paying to the DISCOM.
- (l) **Relocation:** If the System or one or more of the System's panels need to be temporarily moved or its generation suspended, for any other reason requested by the Power Purchaser, the Power Purchaser will be responsible for pre-agreed costs on actuals only, arising from moving, disassembling and re-installing/ commissioning the panel(s) or the System, as agreed between the Parties. The Power Producer will be responsible for providing detailed documentary proof of the actual pre-agreed costs borne for such relocation/disassembling. Within 30 days of these satisfactory documents being provided by the Power Producer, the Purchaser shall reimburse these pre-agreed expenses in full, and delayed payment beyond the date mentioned above will attract Late Payment charges as described in Section 7. During any interruption in generation during such relocation, the Purchaser will continue to be billed as per Deemed Generation, during the period of interruption, for the System or the affected panel(s), as the case may be.

- (m) **Financing:** The Purchaser has been advised that part of the security for the financial arrangements for the System may be the granting of a first priority perfected Security Interest over the System to a Financing Party, and accordingly undertakes to (i) execute all such documents / instruments as may be required by the Power Producer to arrange or secure financing from the Finance Parties, acknowledging the Finance Parties Security Interest over the System and, amongst others, acknowledging their rights of step-in / substitution in accordance with the terms of the relevant financing and security documents, and (ii) extend all co-operation necessary to the extent required to enable the Power Producer to assign its rights and liabilities to a Financing Party. Any Financing Party shall be an intended third-party beneficiary of this Section 8.3(m).

9. **Representations & Warranties Relating to Agreement Validity**

In addition to any other representations and warranties contained in the Agreement, each Party represent and warrants to the other that:

- a. It is duly organized and validly existing and in good standing in the jurisdiction of its incorporation;
- b. It has the full right and authority to enter into, execute, deliver, and perform its obligations under the Agreement.
- c. It has taken all requisite corporate or other action to approve the execution, delivery, and performance of the Agreement;
- d. The Agreement constitutes its legal, valid and binding obligation enforceable against such Party in accordance with its terms;
- e. There is no litigation, action, proceeding or investigation pending or, to the best of its knowledge, threatened before any court or other Governmental Authority by, against, affecting or involving any of its business or assets that could reasonably be expected to adversely affect its ability to carry out the transactions contemplated herein; and
- f. Its execution and performance of the Agreement and the transactions contemplated hereby do not constitute a breach of any term or provision of, or a default under (i) any contract or agreement to which it or any of its Affiliates is a party or by which it or any of its Affiliates, or its or their property is bound, (ii) its organizational documents, or (iii) any Applicable Laws.

10. **Taxes and Governmental Fees**

10.1 **Purchaser obligations**

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

10.2 Power Producer Obligations

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

11. Force Majeure

11.1 Definition

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

11.2 Excused Performance

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

11.3 Termination as a Consequence of Force Majeure Event

If a Force Majeure Event shall have occurred that has affected the Power Producer's performance of its obligations hereunder and that has continued for a continuous period of one hundred eighty (180) days, then Purchaser shall be entitled to terminate the Agreement upon ninety (90) days' prior written notice to the SPD. If at the end of such ninety (90) day period such Force Majeure Event shall still continue, the Agreement shall automatically terminate. Upon such termination for a Force

Majeure Event, neither Party shall have any liability to the other (other than any such liabilities that have accrued prior to such termination). The Power Producer shall have the right to remove the System from the Premises within one (1) month from the date of such termination, or such extended period as may be agreed between the Parties.

12. Default

12.1 Power Producer Defaults and Power Purchaser Remedies

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

- i. An Insolvency Event shall have occurred with respect to the Power Producer;
- ii. Failure to achieve Commissioning of the System within the period as per RfS; and
- iii. The Power Producer breaches any material term of the Agreement and (A) if such breach can be cured within sixty (60) days after Purchaser's written notice of such breach and the Power Producer fails to cure the same; or (B) the Power Producer fails to commence and pursue a cure within such sixty (60) days period if a longer cure period is needed.
- iv. **Misrepresentation or Concealment of Information:** If the Power Producer or any Member of the Bidding Consortium is found to have concealed any material information, made a false or misleading statement, or misrepresented facts in its response to the RfS, in any manner whatsoever, whether intentionally or unintentionally.

(b) **Purchaser's Remedies:**

- i. If a Power Producer Default described in Section 12.1 (a) has occurred and is continuing, in addition to other remedies expressly provided herein, and subject to Section 13, Purchaser shall have a right to deliver a notice of its intention to terminate this Agreement (**Purchaser Preliminary Default Notice**), which shall specify in reasonable detail, the circumstances giving rise to the issue of such notice.
- ii. Upon the occurrence and continuation of Power Producer Default and the failure by the Power Producer to cure such default within the applicable cure period specified in this Article, the Finance Parties shall have the right to seek substitution of the Power Producer by a Selectee for the residual period of this Agreement for the purpose of performing the obligations of the Power Producer. Such substitution of the SPD by a Selectee shall be as per the procedure prescribed in Schedule IV to this Agreement.
- iii. In the event the total debt obligations have been completely satisfied at the time of issue of Purchaser Preliminary Default Notice and upon the occurrence and continuation of Power

Producer Default and the failure by the Power Producer to cure such default within the applicable cure period specified in this Article, the Purchaser may terminate this Agreement by serving a fifteen (15) days' notice to the Power Producer (**Purchaser Termination Notice**)

- iv. Following the issue of Purchaser Preliminary Default Notice, it shall be the responsibility of the Parties to discuss as to what steps shall be taken with a view to mitigate the consequences of the relevant Power Producer's Default having regard to all the circumstances: If the Power Producer Default is not cured within a period of sixty (60) days of the issue of Purchaser Preliminary Default Notice or any other such period mutually agreed upon by the Parties, the Purchaser shall have the right to terminate this Agreement by issuing a Purchaser Termination Notice.
- v. Upon the delivery of the Purchaser Termination Notice, this Agreement shall stand terminated. The Power Producer shall have the liability to make payment within sixty (60) days from the date of Purchaser Termination Notice towards compensation to Purchaser equivalent to 24 (twenty-four) months, or balance PPA period, whichever is less, of charges for its Contracted Capacity. Buying Entity shall have the right to recover the said damages by way of forfeiture of bank guarantee, if any, without prejudice to resorting to any other legal course or remedy. In addition to the levy of damages as aforesaid, the lenders in concurrence with the Purchaser, may exercise their rights, if any, under Financing Agreements, to seek substitution of the Power Producer by a selectee for the residual period of the Agreement, for the purpose of securing the payments of the total debt amount from the Power Producer and performing obligations of the Power Producer. However, in the event the lenders are unable to substitute the defaulting Power Producer within the stipulated period, then the PPA shall stand terminated and the lenders may exercise their mortgage rights and liquidate the Project assets. Provided that any substitution under this Agreement can only be made with the prior consent of Buying Entity including the condition that the selectee meets the eligibility requirements of RfS issued by NREDCAP and accepts the terms and conditions of this Agreement.
- vi. if the Power Producer fails to remove the System from the Premises within one month from the date of termination, the Purchaser shall be entitled to dispose of the System in any manner it deems fit.
- vii. The Power Purchaser may exercise any other remedy it may have at law or equity or under the Agreement.

12.2 Purchaser Defaults and Power Producer's Remedies

- (a) **Purchaser Default:** The following events shall be defaults with respect to Purchaser (each, a **Purchaser Default**)
 - (i) An Insolvency Event shall have occurred with respect to Purchaser;

- (ii) Purchaser breaches any material term of the Agreement and (A) if such breach can be cured within sixty (60) days after the Power Producer's notice of such breach and Purchaser fails to so cure, or (B) Purchaser fails to commence and pursue said cure within such sixty (60) day period if a longer cure period is needed; and
 - (iii) Purchaser fails to pay the Power Producer any undisputed amount or, if the amount is disputed, an amount based on average consumption of last three consecutive undisputed Invoices (or of the available undisputed invoices, as the case may be) to the Power Producer under Section 7 of this Agreement within sixty (60) days from the receipt of notice from the Power Producer of such past due amount.
- (b) **Power Producer's Remedies:** If a Purchaser Default described in Section 12.2(a) has occurred and is continuing, in addition to other remedies expressly provided herein, and subject to Section 13, the Power Producer shall be entitled to terminate this Agreement by serving a fifteen (15) days' notice and upon such termination, the Power Producer at its discretion require Buying Entity to pay to the SPD, damages, equivalent to 24 (twenty-four) months, or balance PPA period whichever is less, of charges for its contracted capacity, with the Project assets being retained by the SPD. Further to the above remedies, the Power Producer may exercise any other remedy it may have at law or equity or under the Agreement.

13. Limitations of Liability

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

14. Assignment & Novation

- 14.1 **Assignment:** Notwithstanding anything contained herein, the Power Producer has the right to assign all or any of its rights under this Agreement (including rights over any assets hereunder), to

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

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

14.3 **Notices**

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

Power Producer’s address and contact details: _____

Purchasers address and contact details: _____

14.4 **Notice**

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

15. Confidentiality

15.1 Confidentiality obligation

- (a) If the Power Producer provides confidential information, including business plans, strategies, financial information, proprietary, patented, licensed, copy righted or trademarked information, and / or technical information regarding the design, operation and maintenance of the System **(Confidential Information)** to Purchaser or, if in the course of performing under the Agreement or negotiating the Agreement Purchaser learns Confidential Information regarding the facilities or plans of the Power Producer, Purchaser shall (a) protect the Confidential information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (b) refrain from using such Confidential Information, except in the negotiation and performance of the Agreement. Notwithstanding the above, Purchaser may provide such Confidential Information to its officers, directors, manager, employees and Affiliates **(Collectively Representatives)**, in each case whose access is reasonably necessary for purposes of the Agreement. Each such recipient of confidential information shall be informed by Purchaser of its confidential nature and shall be directed to treat such information confidentially and shall agree to abide by these provisions. Purchaser shall be liable for any breach of this provision by any entity to whom it improperly discloses Confidential Information. All Confidential Information shall remain the property of the Power Producer and shall be returned to. It after Purchaser's need for it has expired or upon the request of the Power Producer.
- (b) If the Purchaser provides confidential information, including business plans, strategies, financial information, proprietary, patented, licensed, copy righted or trademarked information, **(Confidential Information)** to the Power Producer or, if in the course of performing under the Agreement or negotiating the Agreement the Power Producer learns Confidential Information regarding the facilities Or plans of the Purchaser, the Power Producer shall (a) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (b) refrain from using such Confidential Information, except in the negotiation and performance of the Agreement. Notwithstanding the above, the Power Producer may provide such Confidential Information to its officers, directors, managers, employees and Affiliates (collectively, **Representatives**), in each case whose access is reasonably necessary for purposes of the Agreement. Each such recipient of Confidential Information shall be informed by the Power Producer of its confidential nature and shall be directed to treat such information confidentially and shall agree to abide by these provisions. The Power Producer shall be liable for any breach, of this provision by any entity to whom it improperly discloses Confidential Information. All Confidential Information shall remain the property of the Purchaser and shall be returned to it after the Power Producer's need for it has expired or upon the request of the Purchaser.

15.2 Permitted Disclosures

Notwithstanding any other provision contained herein, neither Party shall be required to hold

confidential any information that;

- (a) becomes publicity available other than through the receiving Party.
- (b) is required to be disclosed under Applicable Law or pursuant to a validity issued notice or required filing, but a receiving Party subject to any such requirement shall promptly notify the disclosing Party of such requirement
- (c) is independently developed by the receiving Party; or
- (d) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality.

16. Indemnity

16.1 Power Producer's Indemnity

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

Purchaser's Indemnity

Subject to Section 13, Purchaser agrees that it shall indemnify, defend and hold harmless the Power Producer, its permitted successors and assigns and their respective directors, officers, employees, contractors, sub-contractors, and agents (collectively, the **Power Producer indemnified Parties**) from and against any and all Losses incurred by the Power Producer Indemnified Parties to the extent arising from or out of any claim for or arising out of any injury to or death or any Person or loss or cl6mage to property of any Person to the extent arising out of Purchaser's negligence or willful misconduct. Purchaser shall not, however, be required to reimburse or indemnify any rowel Producer Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of any Power Producer Indemnified Party.

17. Miscellaneous

17.1 Amendments

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

17.2 Goodwill and Publicity

Neither Party shall use any name, trade name, service mark or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of this Agreement, and each Party shall have the right to promptly review, comment upon and approve any publicity materials, press releases and other public statements by the other Party that refer to, or that describe any aspect of, this Agreement; provided that no such publicity releases or other public statements (except for filings or other statements or releases as may be required by Applicable Law) shall be made by either Party without the prior written consent of the other Party. Without limiting the generality of the foregoing and whether or not the consent of the other Party is required or obtained, all public statements must accurately reflect the rights and obligations of the Parties under this Agreement.

17.3 Industry Standards

Except as otherwise set forth herein, for the purpose of the Agreement, the normal standards of performance within the solar photovoltaic power generation Industry in the relevant market shall be the, measure of whether a Party's performance is reasonable and timely. Unless expressly defined herein, words having well-known technical or trade meanings shall be so construed.

17.4 Cumulative Remedies

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

17.5 No Waiver

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

17.6 Survival

The obligations under Section 8.1 (d) (Power Producer Covenant), Sections 8.3(d), (e), (f) and (g) (Purchaser Covenants), Section 10 (Taxes and Governmental Fees), Section 13 (Limitation of

Liability) Section 14.4 (Notices), Section 15 (Confidentiality), or pursuant to other provisions of this Agreement that, by their nature and context, are intended to survive. Termination of this Agreement shall survive the expiration or termination of this Agreement for any reason.

17.7 Governing Law & Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of India. The Parties agree that the courts in Vijayawada, Andhra Pradesh shall have jurisdiction over any action or proceeding arising under the Agreement.

In the event of any Dispute, difference of opinion or dispute or claim arising out of or relating to this Agreement or breach, termination or the invalidity thereof, shall firstly be attempted to be resolved by conciliation. Any Dispute that cannot be settled through conciliation procedure shall be referred to **arbitration** in accordance with the procedure given below. The Parties agree to comply with the awards resulting from arbitration and waive their rights to any form of appeal insofar as such waiver can validly be made. Cost of conciliation shall be equally shared by both the parties. (Power Producer & Purchaser)

Arbitration Procedure: Settlement of Dispute:

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

If the parties fail to resolve, such a dispute or difference by mutual consent, within 45 days of its arising, then the dispute shall be referred by either party by giving notice to the other party in writing of its intention to refer to arbitration as hereafter provided regarding matter under dispute. No arbitration proceedings will commence unless such notice is given. Any dispute in respect of which a notice of intention to commence arbitration has been given in accordance with Sub Clause , shall be finally settled by arbitration.

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

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

Secretary, whose decision shall bind the Parties finally and conclusive. The Parties to the dispute will share equally the cost of arbitration as intimated by the Arbitrator.

In All Other Cases

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

- i. The Purchaser and the Power Producer shall each appoint one arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the two arbitrators do not succeed in appointing a third arbitrator within Thirty (30) days after the later of the two arbitrators has been appointed, the third arbitrator shall, at the request of either party, be appointed by the Appointing Authority for third arbitrator which shall be the President, Institution of Engineers.
- ii. If one party fails to appoint its arbitrator within thirty (30) days after the other party has named its arbitrator, the party which has named an arbitrator may request the Appointing Authority to appoint the second arbitrator.
- iii. If for any reason an arbitrator is unable to perform its function, the mandate of the Arbitrator shall terminate in accordance with the provisions of Applicable Law as mentioned in Clause (Governing Law) and a substitute shall be appointed in the same manner as the original arbitrator.
- iv. Arbitration proceedings shall be conducted with the Arbitration and Conciliation Act, 1996, as amended from time to time. The venue or arbitration shall be New Amaravati, Andhra Pradesh.
- v. The decision of a majority of the arbitrators (or of the third arbitrator chairing the arbitration panel, if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction as decree of the court. The parties thereby waive any objections to or claims of immunity from such enforcement.
- vi. The arbitrator(s) shall give reasoned award.
- vii. Notwithstanding any reference to the arbitration herein, the parties shall continue to perform their respective obligations under the agreement unless they otherwise agree.
- viii. Cost of arbitration shall be equally shared between the Power Producer and Purchaser.

17.8 Severability

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

17.9 Successors and Assigns

This Agreement and the rights and obligations under the Agreement shall be binding upon and shall

inure to the benefit of the Power Producer and Purchaser and their respective successors and permitted assigns.

17.10 Counterparts

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

17.11 Independent Service Provider

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

17.12 Non-Exclusive Agreement

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

17.13 Insurance

The Power Producer shall maintain at its own costs, throughout the tenure of this Agreement and any extensions thereof all mandatory insurance coverage for adequate amount including but not restricted to comprehensive general liability insurance including theft and vandalism, covering the System and accidental losses, bodily harm, injury, death of all individuals employed/ assigned by the Power Producer to perform the services required under this Agreement. Any insurance in relation to the Premises other than in relation to the System shall be required to be obtained by the Purchaser in consultation with the Power Producer and the Financing Parties. All such insurance policies obtained by the Purchaser shall name the Power Producer as an additional insured party and as loss payee and shall be assignable in favour of any Financing Parties.

17.14 Intellectual Property

Each Party shall retain exclusive ownership, right and title over its respective intellectual property, and nothing in this Agreement shall entitle either Party to use the other Party's intellectual property, or be construed as granting a license in respect of any Party's intellectual property.

17.15 Entire Agreement

This Agreement constitutes the entire agreement between the Parties hereto with respect to the

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

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

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

**FOR & ON BEHALF OF
THE PURCHASER/ ROOF OWNER / CONSUMER**

Signature:
Name:
Designation:

WITNESSES

- 1) Signature:
Name:
Designation:
- 2) Signature:
Name:
Designation:

**FOR & ON BEHALF OF
POWER PRODUCER**

Signature:
Name:
Designation:

WITNESSES

- 1) Signature:
Name:
Designation:
- 2) Signature
Name

Designation

**FOR & ON BEHALF OF
NREDCAP**

Signature:

Name:

Designation:

WITNESSES

- 1) Signature:
Name:
Designation:
- 2) Signature
Name
Designation

SCHEDULE-I

1. Description of the Premises: _____

Premises Overview	
Segment	
Type of Roof	
Hours of Operation	
Security	

2. Description of the System: _____

The key features of the System are as follows:

S.No.	Parameter	Value
1	System Size	kWp
2	Expected Annual Energy Generation	
3	Module Type	
4	Inverter Type & Rating	
5	Electrical Parameter for interconnection	
6	Mounting type	
7	Surface Azimuth Angle	
8	Tilt Angle	
9	Wind Resistance	

Power Producer shall provide an online monitoring system to the Purchaser and NRED CAP that will enable easy access to Solar Power information.

SCHEDULE II

Government approvals

1. To be obtained by the power producer

All approvals including approvals/consents required under local regulations, building codes and approvals required from the distribution utility etc. relating to installation and operation of the system (including the government incentives/subsidies available for the project) and generation and supply of solar power from the Project. Power Purchaser will apply for net metering and bear the cost of net meter.

2. To be obtained by Power Purchaser

Any authorizations required of installation of system at the premises, permissions and coordination with DISCOM or any related organization for NET METERING. Purchaser shall meet the cost for enhancement of CMD if any as per requirement.

SCHEDULE III: RfS

SCHEDULE IV SELECTEE

1. Substitution of the Power Producer

The Financing Party may seek to exercise right of substitution by an amendment or novation of the Agreement executed between Power Producer and the Purchaser in favour of the Selectee, The Purchaser and the Power Producer shall cooperate with the Financing Party to carry out such substitution.

2. Substitution Notice

Upon the occurrence and continuation of Power Producer Default and the failure by the Power Producer to cure such default within the applicable cure period specified in this Article, the Financing Party, upon receipt of a written advice from the Purchaser confirming such failure, shall be entitled to notify the Parties of the intention of the Financing Party to substitute the Power Producer by the Selectee for the residual period of this Agreement (the **Substitution Notice**).

3. Interim Operation of Project

- a. On receipt of a Substitution Notice, no further action shall be taken by any Party to terminate this Agreement, except under and in accordance with the terms of this Schedule VI of this Agreement.
- b. On issue of a Substitution Notice, the Financing Party shall have the right to request the Purchaser to enter upon and takeover the Project for the interim and till the substitution of the Selectee is complete and to otherwise take all such steps as are necessary for the continued operation and maintenance of the Project, and the Power Producer shall completely cooperate in any such takeover of the Project by the Purchaser.
- c. If the Purchaser refuses to take over the Project on request by the Financing Party in accordance with clause 3(b) above, the Power Producer shall have the duty and obligation to continue to operate the Project in accordance with this Agreement till such time as the Selectee is finally substituted.
- d. The Financing Party and the Purchaser shall, simultaneously have the right to commence the process of substitution of the Power Producer by the Selectee in accordance with these terms, and the Power Producer hereby irrevocably consents to the same.

4. Process of Substitution of Power Producer

- a. The Financing Party may, on delivery of a Substitution Notice notify the Purchaser and the Power Producer about the Financing Party's decision to invite and negotiate, at the cost of

the Financing Party, offers from third parties to act as Selectee, either through private negotiations or public auction and / or a tender process, for the residual period of this Agreement. Subject to and upon approval of the Purchaser, such Selectee shall be entitled to receive all the rights of the Power Producer and shall undertake all the obligations of the Power Producer under this Agreement and any other Project documents executed between the Power Producer and the Purchaser, in accordance with these terms of substitution.

- b. Upon the Purchaser approving the Selectee, the Power Producer shall transfer absolutely and irrevocably, the ownership of the Project to such Selectee simultaneously with the amendment or novation of this Agreement and other Project documents executed between the Power Producer and Purchaser in favour of the Selectee.