

POWER PURCHASE AGREEMENT

FOR

PROCUREMENT OF SOLAR POWER

ON LONG TERM BASIS

Between

WELSPUN ENERGY MAHARASHTRA PRIVATE LIMITED

And

BRIHANMUMBAI ELECTRIC SUPPLY AND TRANSPORT

UNDERTAKING (BEST)

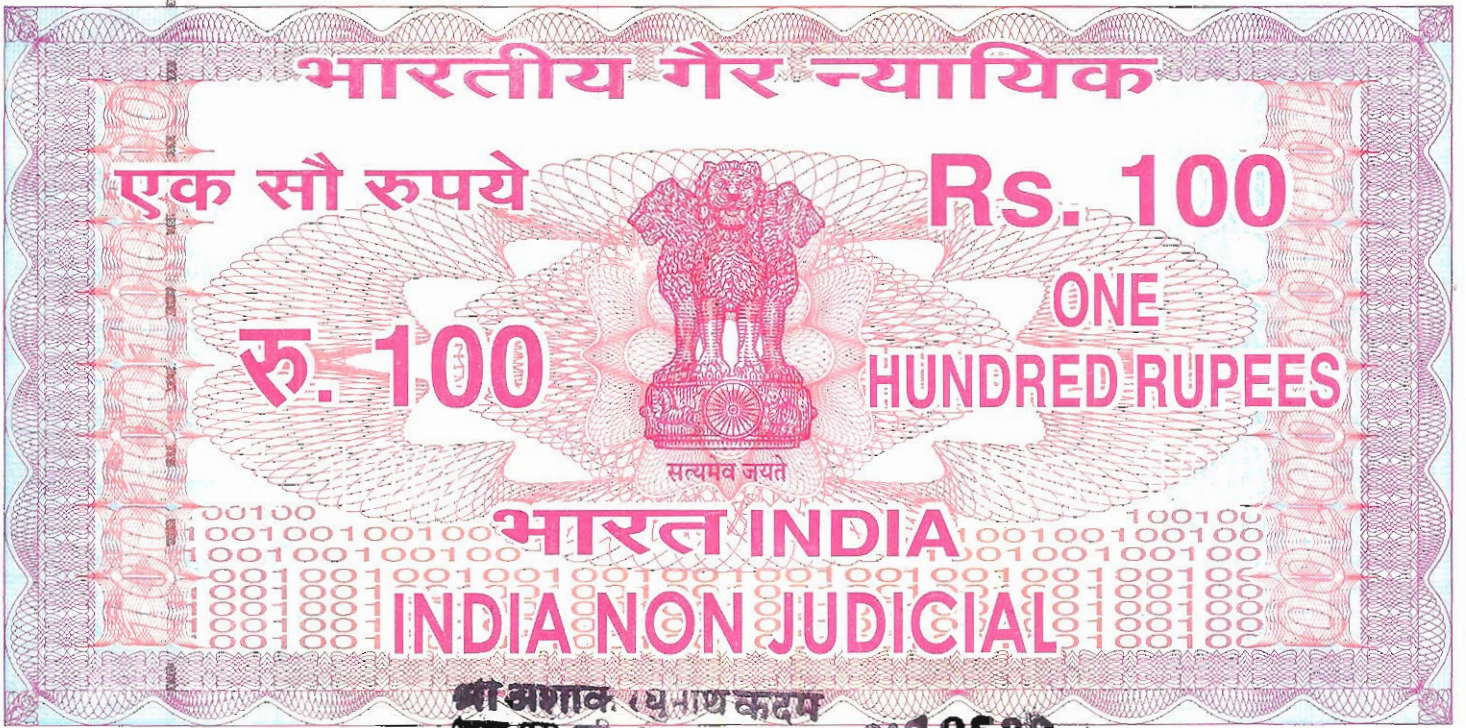
May -- 2013



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महाराष्ट्र MAHARASHTRA

श्री अशाक. धुभाय कदम
(एल.एस.की नं-125)
२९०-शाहिद जगतपूर रोड
आन्ट पवन. २/२५, प्लॉट. पृबई-१.

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प्रधान मुद्रांक कार्यालय, मुंबई
प. मु. विक्रेता क्र. ९५
14 MAY 2013
सक्षम अधिकारी

क्रमांक _____ टिकान
श्री./श्रीमता 20 MAY 2013
धाना न्यायक्रत प्रदाक गेपर विकला
दुरधनी-२२६२३६७

WELSPUN ENERGY LIMITED

Welspun House, 7th Floor,
Kamala City, Senapati Bapat
Lower Parel, Mumbai - 400 013
Phone: 91-22-66130000

परबनाधारक मुद्रांक निवे

श्रीमती. वृ. सु. साठन

Umesh
Ramesh

This Solar Power Purchase Agreement is made on the 27th day of May 2013 at Mumbai

Between

Welspun Energy Maharashtra Pvt. Ltd, a company incorporated under the Companies Act 1956, having its registered office at Trade World, "B" Wing, 9th Floor, Kamala City, Senapati Bapat Marg, Lower Parel, Mumbai - 400 013 (hereinafter referred to as "Seller", 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

Brihanmumbai Electric Supply & Transport Undertaking (BEST), a statutory Undertaking of Municipal Corporation of Greater Mumbai and Distribution Licensee



supplying electricity to the Island City of Mumbai and public transport to Mumbai having its registered office at BEST Bhavan, BEST Marg, Mumbai-400 001 (hereinafter referred to as the " Procurer / Purchaser / Buyer", which expression, unless repugnant to the context, shall be deemed to include its successors and permitted assigns) of the Second Part.

Both Seller and Procurer are individually referred to as 'Party' and collectively referred to as 'Parties'

Whereas:

1. BEST has signed a Memorandum of Understanding (MoU) with Welspun Energy Maharashtra Pvt. Ltd on January 29th, 2013 to procure power from Solar Renewable Energy to fulfill their Solar Renewable Purchase Obligation under MERC (Renewable Purchase Obligation, its Compliance and Implementation of REC framework) Regulations, 2010.
2. Welspun Energy Maharashtra Pvt. Ltd desires to develop, own and operate a Solar Photovoltaic Power Plant at MIDC Mangalwedha (G.C), Taluka Mangalwedha, District Solapur, Maharashtra, hereinafter referred to as the "Facility" or "The Project"
3. Welspun Energy Maharashtra Pvt. Ltd has agreed to sell Solar Power to BEST from the Solar power plant and BEST as a Utility under the Solar Renewable Purchase Obligation (RPO) has agreed to buy the Energy generated from the Facility in accordance with and subject to the terms and conditions of this Agreement.

The Parties hereby agree to execute this Power Purchase Agreement setting out the terms and conditions for the sale of power by Seller to Procurer.

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



1. ARTICLE 1: DEFINITIONS AND INTERPRETATION

1.1 Definitions

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

"Act" or "Electricity Act, 2003"	shall mean the Electricity Act, 2003 and include any modifications, amendments and substitution from time to time;
"Agreement" or "Power Purchase Agreement" or "PPA"	shall mean this Power Purchase Agreement including its recitals and Articles, amended or modified from time to time in accordance with the terms hereof;
"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 Seller and Procurer, a day other than Sunday or a statutory holiday, on which the banks remain open for business in Mumbai;
"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;
"Commission"	means Maharashtra Electricity Regulatory Commission
"Change in Law"	shall have the meaning ascribed thereto in Article 12 of this Agreement;
"Commencement Notice"	means the meaning set forth in Article 5
"Commencement Date"	Shall mean the actual date of commencement of supply of respective Unit(s) from the Power Project where upon the Seller starts injecting power from the Power Project to the Delivery Point
"Competent Court of Law"	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 Seller Preliminary Default Notice or Procurer Preliminary Default Notice as provided in Article 13 of this Agreement, for consultation between the Parties to mitigate the consequence of the relevant event having regard to all the circumstances;
"Contract Year"	<p>Shall mean the period beginning from the Effective Date and ending on the immediately succeeding March 31st and thereafter each period of 12 months beginning on April 1st and ending on March 31st provided that:</p> <p>(i) in the financial year in which the Scheduled Commencement Date would occur, the Contract Year shall end on the date immediately before the Scheduled Commencement Date and a new Contract Year shall commence once again from the Scheduled Commencement 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 Energy"	shall mean MU's contracted for supply by the Seller to Procurer at the Delivery Point from the Solar Power Project;
"Day"	Shall mean a day, if not a Business Day, the immediately succeeding Business Day.
"Delivery Point"	shall be the at LILO point of Welsun Mangalwedha substation at the inter-connection to MSETCL grid
"Deemed Generation"	means the as defined in Article 4.4.4
"Dispute"	shall mean any dispute or difference of any kind between Procurer and the Seller, 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 have the same meaning ascribed thereto in Article 10 of this Agreement
"Effective Date"	shall have the meaning ascribed thereto in Article 2.1 of this Agreement;
"Electricity Laws"	shall mean the Electricity Act, 2003 and the rules and regulations made thereunder 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;



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"Energy Accounts"	shall mean the state energy accounts as specified in the Grid Code issued by the appropriate agency for each Month (as per their prescribed methodology), including the revisions and amendments thereof;
"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 Commencement Date of last Unit of the Project subject to that the supply of power shall be limited for a period of 25 years from the Commencement Date of solar project;
"Financing Agreements"	shall mean the agreements pursuant to which the Seller has sought financing for the Power Project including the loan agreements, security documents, notes, indentures, security agreements, letters of credit and other documents, as may be amended, modified, or replaced from time to time, but without in anyway increasing the liabilities of Procurer;
"Force Majeure" or "Force Majeure Event"	Shall have the meaning ascribed thereto in Article 11 of this Agreement.
"Indian Governmental Instrumentality"	shall mean the Government of India, Governments of state(s) of Maharashtra and any ministry, department, board, authority, agency, corporation, commission under the direct or indirect control of Government of India or any of the above state Government(s) or both, any political sub-division of any of them including any court or Appropriate Commission(s) or tribunal or judicial or quasi-judicial body in India;
"Installed Capacity"	Shall mean the name plate capacity of all the Units of the Power Project;
"Insurances"	shall mean the insurance cover to be obtained and maintained by the Seller in accordance with Article 8 of this Agreement;
"Interconnection Facilities"	shall mean the facilities on Seller's side of the Delivery Point for sending and metering the electrical output in accordance with this Agreement and which shall include, without limitation, all other transmission lines and associated equipments, transformers, relay and switching equipment and protective devices, safety equipment and, subject to Article 7, the Metering System required for supply of power as per the terms of this Agreement;
"Inter-connection point"	Shall mean the point at 132 kV voltage level or above where the power from the solar power project is injected into the state grid system. The responsibility of achieving electrical connections of the power project with the MSETCL lies with the Seller.
"Invoice" or "Bill"	shall mean either a Monthly Bill / Supplementary Bill or a Monthly Invoice/ Supplementary Invoice raised by any of the Parties;
"Law"	shall mean in relation to this Agreement, all laws



	including Electricity Laws in force in India and any statute, ordinance, regulation, notification or code, rule, or any interpretation of any of them by an Indian Governmental Instrumentality and having force of law and shall further include without limitation all applicable rules, regulations, orders, notifications by an Indian Governmental Instrumentality pursuant to or under any of them and shall include without limitation all rules, regulations, decisions and orders of the Appropriate Commissions;
Metering point	Metering shall be done at the interconnection point between MSETCL and the Solar Project where the power is injected into the MSETCL grid system
"MERC"	shall mean the Maharashtra Electricity Regulatory Commission
"Month"	shall mean a period of thirty (30) days from (and excluding) the date of the event, where applicable, else a calendar month;
"Operating Period";	shall mean the period commencing from the Commencement Date, until the last day of the Term of this Agreement or date of earlier termination of this Agreement in accordance with Article 2 of this Agreement;
"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 9.4 of this Agreement
"Power Project"	shall mean the solar power generation facility of Installed Capacity of 20 MW located at MIDC Mangalwedha (G.C), Taluka Mangalwedha, District Solapur, Maharashtra. This includes all units and auxiliaries such as water supply, treatment or storage facilities; bay/s for transmission system in the switchyard, and all the other assets, buildings/structures, equipments, plant and machinery, facilities and related assets required for the efficient and economic operation of the power generation facility; whether completed or at any stage of development and construction or intended to be developed and constructed for the purpose of supply of power as per this Agreement.
"Preliminary Default Notice"	shall have the meaning ascribed thereto in Article 13 of this Agreement.
"Project Financing Arrangements/Financial Closure"	shall mean arrangement of necessary funds by the Seller either by way of commitment of funds by the company from internal resources and/or tie up of funds through a bank/financial institution by way of sanction of a loan
"Prudent Utility Practices"	shall mean the practices, methods and standards that are generally accepted internationally from time to time by electric utilities for the purpose of ensuring the safe, efficient and economic design, construction,



	Commencement, operation and maintenance of power generation equipment and which practices, methods and standards shall be adjusted as necessary, to take account of: a) operation and maintenance guidelines recommended by the manufacturers of the plant and equipment to be incorporated in the Power Project; b) the requirements of Indian Law; and the physical conditions at the site of the Power Project;
"RBI"	shall mean the Reserve Bank of India;
"Rebate"	shall have the same meaning as ascribed thereto in Article 9.3.4 of this Agreement
"Renewable Purchase Obligation (RPO)"	is the total consumption of electricity for purchase from renewable sources of energy in the area of each distribution licensee under Section 86 (i) (e) of Electricity Act 2003.
"Rupees", "Rs.",	shall mean Indian rupees, the lawful currency of India;
"Scheduled Commencement Date"	shall mean start date of supply of power from the solar PV project by Seller to Procurer
"SLDC"	shall mean the centre established under Sub-section (1) of Section 31 of the Electricity Act 2003, relevant for the State(s) where the Delivery Point is located;
"SLDC Charges"	shall mean the charges levied by the SLDC of the state wherein the Solar Power Project is located;
"State Nodal Agency"	shall mean the Maharashtra Energy Development Agency (MEDA)
"Solar Photovoltaic" or "Solar PV"	Shall mean the solar photovoltaic power project that uses sunlight for conversion into electricity and that is being set up by the Seller to provide Solar Power to Procurer as per the terms and conditions of this Agreement
"State Transmission Utility" or "STU"	shall mean the Board or the Government company notified by the respective State Government under Sub-section (1) of Section 39 of the Act;
"State Grid System"	means the intrastate transmission system of the State of Maharashtra as modified and expanded from time to time, for delivery of electricity to the Procurer's consumers in the State of Maharashtra
"State Grid Code"	shall mean the State Grid Code as specified by Maharashtra Electricity Regulatory Commission, referred under Clause(h) of Sub-section (1) of Section 86 of the Electricity Act 2003, as applicable;
"Tariff"	Shall have the same meaning as provided for in Article 8 of this Agreement;
"Tariff Payment"	shall mean the payments to be made under Monthly Bills as referred to in Article 9 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;
"Week"	Shall mean a calendar week commencing from 00:00 hours of Monday, and ending at 24:00 hours of the following Sunday;

1.2 Interpretation

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

- 1.2.1 "Agreement" shall be construed as including a reference to its Articles and/or Appendices and/or Annexures;
- 1.2.2 An "Article", a "Recital", a "Schedule" and a "paragraph / clause" shall be construed as a reference to an Article, a Recital, a Schedule and a paragraph/clause respectively of this Agreement;
- 1.2.3 A "crore" means a reference to ten million (10,000,000) and a "lakh" means a reference to one tenth of a million (1,00,000);
- 1.2.4 An "encumbrance" shall be construed as a reference to a mortgage, charge, pledge, lien or other encumbrance securing any obligation of any person or any other type of preferential arrangement (including, without limitation, title transfer and retention arrangements) having a similar effect;
- 1.2.5 "Indebtedness" shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.2.6 A "person" shall be construed as a reference to any person, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and a person shall be construed as including a reference to its successors, permitted transferees and permitted assigns in accordance with their respective interests;
- 1.2.7 "Rupee", "Rupees", "Rs" or new rupee symbol " ₹ " shall denote Indian Rupees, the lawful currency of India;
- 1.2.9 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;



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2. ARTICLE 2: TERM OF AGREEMENT

2.1 *Effective Date*

2.1.1 This Agreement shall come into effect from the date of its execution by both the Parties and such date shall be referred to as the Effective Date.

2.2 *Term of Agreement*

2.2.1 This Agreement shall remain effective subject to Article 2.3 and 2.4, and shall remain in full force and effect until the 25th anniversary of the Commencement Date unless renewed or extended. 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 on mutually agreed terms and conditions at least one hundred eighty (180) days prior to the Expiry Date.

2.3 *Early Termination*

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

2.4 *Survival*

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



3. ARTICLE 3: CONDITIONS PRECEDENT

3.1 Following conditions precedent are to be fulfilled by the Seller at time of signing this Agreement:

- a) The Seller shall provide to the Procurer a Detailed Project Report (DPR) in respect of the Project
- b) The Seller shall provide proof of landholding to the Procurer
- c) The Seller shall provide a letter from Financial institution showing in principle approval for funding the project subject to this Power Purchase Agreement signing between the parties

3.2 CONDITIONS SUBSEQUENT

3.2.1 *Satisfaction of obligations by the Seller*

The Seller agrees and undertakes to duly perform and complete all of the following activities at its own cost and risk on or before six months from the date of signing of PPA, unless such completion is affected by any Force Majeure event, or if any of the activities is specifically waived in writing by Procurer:

- a) The Seller shall obtain all Consents, Clearances and Permits required for supply of power to Procurer as per the terms of this Agreement
- b) The Seller shall make Project Financing Arrangements and shall provide necessary documents to Procurer in this regard;
- c) Commencement date: The Seller shall commence the supply of power within six months from the date of signing of PPA
- d) The Seller shall make adequate arrangements to connect the Power Project switchyard with the MSETCL Interconnection Facilities at the Delivery Point;
- e) The Seller shall sign a Connection Agreement with MSETCL confirming the evacuation and connectivity of the State Grid system upto the delivery point by the Scheduled Commencement Date;
- f) The Seller shall produce the documentary evidence of the clear right or title or possession of the land in the name of Seller;
- g) The Seller shall also comply with the provisions of IEGC/Maharashtra State Grid Code, prevailing and future ABT orders issued by MERC, and other technical operational and safety criteria.
- h) The Seller shall obtain and maintain necessary policies of insurance during the term of this agreement consistent with Standard Utility Practice.
- i) The Seller shall submit to Procurer the relevant documents as stated above, and



also complying with the Conditions Precedent, on or before six months from the date of signing of PPA.

3.3 *Consequences of non-fulfillment of conditions subsequent*

- 3.3.1 If the Seller is unable to commence power supply beyond six months from the date of signing of PPA, the Seller shall pay to Procurer any regulatory charges that may be levied by MERC for shortfall in units calculated on pro-rata basis till COD based on the delay in such a commencement of solar power supply.
- 3.3.2 For the avoidance of doubt, it is clarified that this Article shall survive the termination of this Agreement.
- 3.3.3 In case of inability of the Seller to fulfill any one or more of the conditions specified in Article 3.2 due to any Force Majeure event, the time period for fulfillment of the Conditions Subsequent as mentioned in Article 3.2, shall be extended for the period of such Force Majeure event.
- 3.3.4 Provided that due to the provisions of this Article 3.2, any increase in the time period for completion of conditions subsequent mentioned under Article 3.2, shall also lead to an equal extension in the Scheduled Commencement Date.
- 3.3.5 In case for any particular year of the contract period, the Seller is unable to supply the minimum agreed quantity of energy units to the Procurer, the Seller shall pay to Procurer any regulatory charges that may be levied by MERC on Procurer for shortfall in units towards RPO non-compliance calculated for that particular contract year.

3.4 *Satisfaction of obligations by the Procurer:*

- a) The Procurer shall obtain necessary approvals from Maharashtra State Electricity Transmission Company Ltd (MSETCL) to arrange for the drawl of power beyond the Delivery Point from the State Grid system before six months from the date of signing of PPA.
- b) The Procurer shall sign the Power Purchase agreement within 45 days of submission of all the documents towards satisfaction of all obligations by the Seller listed in Clause 3.1
- c) The Procurer shall also ensure any compliance required under the provisions of Maharashtra State Grid Code, prevailing and future ABT orders issued by MERC.

3.4.1 Obligations to Satisfy

Seller and Procurer shall use all reasonable endeavours to procure the satisfaction in full of the Obligations set out above when and in so far as the subject matter of the relevant condition falls within the scope of its respective responsibility under Article 3.



Procurer and Seller shall co-operate as required to procure necessary legal opinions with respect to their respective authorization to execute this Agreement and the enforceability of this Agreement.

3.5: Non-fulfilment of Conditions Precedent

- 3.5.1. In case of inability of the Seller to fulfill the conditions specified in Section 3.1 due to any Force Majeure event, the time period for fulfillment of the Conditions Precedent as mentioned in Section 3.1, shall be extended for the period of such Force Majeure event, subject to a maximum extension period of Four (4) Months continuous or non-continuous in aggregate. Thereafter, this Agreement may be terminated by Procurer or the Seller by giving a Termination Notice of at least thirty (30) days, in writing to the other Party.
- 3.5.2: Similarly, in case of inability of the Procurer(s) to fulfill the conditions specified in Section 3.3 due to any Force Majeure event, the time period for fulfillment of the condition precedent as mentioned in Section 3.1, shall be extended for the period of such Force Majeure event, subject to a maximum extension period of Four (4) Months continuous or non-continuous in aggregate. Thereafter, this Agreement may be terminated by either Procurer or the Seller by giving a Termination Notice of at least thirty (30) days, in writing to the other Party. The termination of the Agreement, shall take effect upon the expiry of the last date of the said notice period.
- 3.5.3. No Tariff revision shall be allowed on account of any extension of time arising under any of the sub-articles of Article 3.5; Provided that due to the provisions of Clause 3.5.1 and 3.5.2, any increase in the time period for completion of Obligations mentioned under Section 3.1, shall also lead to an equal extension in the Scheduled Commencement Date.



4. ARTICLE 4: CONSTRUCTION & DEVELOPMENT OF THE PROJECT

4.1 *Seller's Obligations*

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

- a) obtaining 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
- b) designing, constructing, erecting, completing and testing the Power Project in accordance with the applicable Law, the Grid Code, the terms and conditions of this Agreement and Prudent Utility Practices.
- c) the commencement of supply of power up to the Contracted Energy to Procurer no later than the Scheduled Commencement Date and continuance of the supply of power throughout the term of the Agreement; and
- d) connecting the Power Project switchyard with the Interconnection Facilities at the Delivery Point; and
- e) Owning the Power Project throughout the Term of Agreement free and clear of encumbrances, except those expressly permitted under Article 15;
- g) Fulfilling all obligations undertaken by the Seller under this Agreement.

4.2 *Information regarding Interconnection Facilities*

4.2.1 The Seller shall be required to obtain all information with regard to the Interconnection Facilities as is reasonably necessary to enable it to design, install and operate all interconnection plant and apparatus on the Seller's side of the Delivery Point to enable delivery of electricity at the Delivery Point.

4.3 *Purchase and sale of Contracted Energy*

4.3.1 Subject to the terms and conditions of this Agreement, the Seller undertakes to sell to Procurer and Procurer undertakes to pay Tariff for all the energy supplied at the Delivery Point corresponding to the Contracted energy.

4.4 *Right to Contracted Energy*

4.4.1 The Procurer, at any time during a Contract Year, shall not be obliged to purchase any additional energy from the Seller beyond the agreed quantity, the agreed quantity is as indicated in the table shown below.

Number of Units to be supplied to Procurer	Contract Year	Contract Year	Contract Year
	2013-14	2014-15	2015-16 and thereafter
In Millions	28.0	30.0	31.5
	OR		
	Proportionate		



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	energy for part of the year from date of Commencement of supply		
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If for any Contract Year, it is found that the Seller has not been able to supply minimum energy as above, on account of reasons solely attributable to the Seller, the non-compliance by Seller shall make Seller liable to pay the compensation provided in the Section 3.3.5 to enable Procurer to remit the regulatory charges only in the case of levy of such charges by MERC on Procurer for the Contract year. This compensation shall be applied to the amount of shortfall in generation during the Contract Year. The amount of compensation shall be computed at the rate equal to the compensation payable on per unit basis by Procurer towards non-compliance of Solar Renewable Purchase Obligation in state of Maharashtra.

4.4.2 Notwithstanding Article 4.4.1, the Seller is free to sell any energy which is in excess of the quantum of power agreed to be supplied under this Agreement to a third-party from Scheduled Commencement Date.

4.4.3 The Seller is free to augment the installed capacity of the project at any point in time of any contract year to supply the minimum energy agreed as above to the Seller.

4.4.4 Deemed Generation: The Procurer shall be obliged to pay for the contracted energy during the entire term of the contract and shall continue to make payments to the Seller under even any of the following circumstances:

- i.) Subsequent to commencement date of supply, the Procurer fails to draw power owing to non-fulfillment of Procurer's obligations
- ii.) Procurer declines to take power supply from the Seller

Under such circumstances, Seller is not deemed to be liable for compensation of regulatory penalties, defined as per Clause 4.4.1, that are levied on Procurer for non-compliance of Renewable Purchase Obligation. This clause 4.4.4 is subject to the Seller having generated and injected the agreed quantity, as per Clause 4.4.1, into the MSETCL grid and submitted metered records of such generation to Procurer.

4.5 *Extensions of Time*

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

- a) any Procurer Event of Default; or
- b) Force Majeure Events affecting the Procurer, or
- c) Force Majeure Events affecting the Seller,

the Scheduled Commencement Date and the Expiry Date shall be deferred, subject to the limit prescribed in Article 4.5.2, for a reasonable period but not less than 'day for day' basis, to permit the Seller or Procurer through the use of due diligence, to



overcome the effects of the Force Majeure Events affecting the Seller or Procurer, or till such time such Event of Default is rectified by Procurer.

- 4.5.2 Subject to Article 4.5.6, in case of extension occurring due to reasons specified in Article 4.5.1(a), any of the dates specified therein can be extended, subject to the condition that the Scheduled Commencement Date would not be extended by more than three (3) months.
- 4.5.3 In case of extension due to reasons specified in Article 4.5.1(b) and (c), and if such Force Majeure Event continues even after a maximum period of three (3) Months, non-affected Party 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 Commencement Date or the Expiry Date should be deferred by, 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 Commencement Date and the Expiry Date newly determined shall be deemed to be the Scheduled Commencement Date and the Expiry Date for the purposes of this Agreement.
- 4.5.6 Notwithstanding anything to the contrary contained in this Agreement, any extension of the Scheduled Commencement Date arising due to any reason envisaged in this Agreement shall not be allowed beyond March 31st, 2014.

4.7 *Acceptance/Performance Test*

- 4.7.1 Prior to synchronization of the Power Project, the Seller 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/state government to carry out testing and certification for the solar power projects.

4.8 *Prudent Practices*

- 4.8.1 The Seller shall be further required to provide entry to the site of the Power Project free of all obstructions at all times during the Term of the Agreement to Procurer.



5. ARTICLE 5: SYNCHRONISATION, COMMENCEMENT OF POWER SUPPLY

The Seller will specify in a written notice (“Commencement Notice”) to the Procurer that (i) the Facility is constructed in accordance with this Agreement and is ready to deliver Energy in accordance with the terms hereof; (ii) all permissions and approvals required for the Facility to sell Energy at the rates and terms specified under this Agreement have been obtained and (iii) all interconnection facilities are available to receive Energy from the Facility. Such notice shall take effect and the Commencement Date will be achieved following the Procurer’s declaration that all of the conditions set forth in this Section and Article 3 have been satisfied or waived by the Procurer i.e.:

(a) The Seller has successfully completed the testing of the Facility in accordance with the manufacturer’s recommendations and the Seller has obtained and provided to the Procurer Certificates from the Electrical Inspectorate (GOM) or MSETCL, MEDA or the Procurer’s officer as may be designated;

(b) The Facility has achieved initial synchronization with the State Grid System and has demonstrated the reliability of its communications systems and communications with the Procurer;

(c) The Seller has operated the Facility without experiencing any abnormal or unsafe operating conditions on any interconnected system;

(d) The Seller shall also have notified the Procurer no later than 15 (fifteen) days prior to the Commencement Date. At that time, Officers of the Procurer shall verify that the Seller has achieved all of the conditions precedent to Commercial Operation and shall provide the Seller a written endorsement in this behalf acknowledging the documents, certificates, approvals etc provided by the Seller in this behalf.



6. ARTICLE 6: DISPATCH

6.1 *Dispatch*

6.1.1 The Power Project shall be required to maintain compliance to the applicable State Grid Code requirements and directions, if any, as specified by concerned SLDC from time to time.

6.2 *Open Access*

6.2.1 The Seller shall be responsible for entering into Connection agreement with MSETCL and for obtaining all approvals for grid connectivity of the Project from Maharashtra State Electricity Transmission Company Ltd (MSETCL) at 132kV or higher voltage level, including survey, design, engineering and construction of the said transmission line of the transmission system.

6.2.2 The Transmission system up to delivery point shall either be developed by Seller or shall be developed by MSETCL through deposit work basis for which all expenditure will be borne by Seller. Procurer shall fully co-operate with Seller by furnishing necessary documentation for approvals related to grid connectivity applications.

6.2.3 The Procurer shall fully co-operate with Seller in obtaining the permission from MSETCL and authorized State Government body under Section 68 of the Indian Electricity Act 2003 and section 164 of the Electricity Act 2003 for construction of the dedicated transmission line from its project to the interconnection point of MSETCL. The Procurer shall fully co-operate with the Seller in obtaining the approvals from MEDA/MSETCL, if required, for matters related to withdrawal of power from MSETCL including furnishing such letter, recommendations, confirmation and no objection certificate as may be required.

6.2.4 The Procurer shall be fully responsible to sign a new / modify their current Bulk Power Transmission Agreement with the MSETCL / MSSLDLDC to ensure that the Power injected by the Seller into the grid has all the necessary formalities fulfilled to be purchased by the Procurer from the date of commencement of supply.



7. **ARTICLE 7: METERING**

7.1 *Meters*

7.1.1 Metering point shall be the LILO point of Welspun Mangalwedha substation at the inter-connection of the said Solar Project with the MSETCL grid system

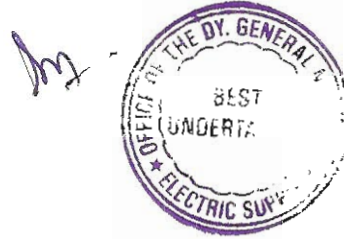
7.1.2 For installation of Meters, Meter testing, Meter calibration and Meter reading and all matters incidental thereto, the Seller and Procurer shall follow and be bound by the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, the applicable State Grid Code, as amended and revised from time to time.

7.1.3 The Seller shall bear all costs pertaining to installation, testing, calibration, maintenance, renewal and repair of meters at Seller's side of Delivery Point.



8. ARTICLE 8: APPLICABLE TARIFF

8.1 The Seller shall be entitled to receive the Tariff of Rs. 8.56/ kWh with effect from the Scheduled Commencement Date or actual Commencement Date, in case Commencement Date has been achieved prior to Scheduled Commencement Date.



9. ARTICLE 9: BILLING AND PAYMENT

9.1 *General*

9.1.2 From the commencement of supply of power, Procurer shall pay to the Seller the monthly Tariff Payments, in accordance with this Article. All Tariff Payments by Procurer shall be in Indian Rupees.

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

9.2.1 The Seller shall issue to Procurer a signed Monthly Bill/Supplementary Bill for the immediately preceding Month no later than 15 days after the end of each calendar Month. In case the Monthly Bill / Supplementary Bill for the immediately preceding Month is issued after the 15th day of the next Month, the Due Date for payment of such Monthly Bill/ Supplementary Bill shall be as detailed of Article 9.3.1 below.

Each Monthly Bill shall include all charges as per this Agreement for the energy supplied for the relevant Month based on Energy Accounts issued by SLDC or any other competent authority which shall be binding on both the Parties. The Monthly Bill amount shall be the product of the energy metered at metering point and the applicable tariff.

9.3 *Payment of Monthly Bills*

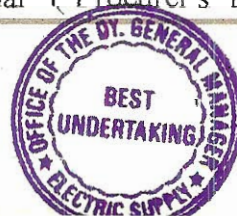
9.3.1 Procurer shall pay the amount payable under the Monthly Bill/Supplementary Bill by the (fifth) 5th day of the immediately succeeding Month (*the Due Date*) in which the Monthly Bill/ Supplementary Bill is issued by the Seller to the Procurer to such account of the Seller, as shall have been previously notified by the Seller in accordance with Article 9.3.2 (iii) below.

In case the Monthly Bill or any other bill, including a Supplementary Bill is issued after the (fifteenth) 15th day of the next month, the Due Date for payment would be (fifth) 5th day of the next month to the succeeding Month.

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

- i) deductions required by the Law; and
- ii) amounts claimed by Procurer, if any, from the Seller, through an invoice to be payable by the Seller, and not disputed by the Seller within fifteen (15) days of receipt of the said Invoice and such deduction or set-off shall be made to the extent of the amounts not disputed. It is clarified that Procurer shall be entitled to claim any set off or deduction under this Article, after expiry of the said fifteen (15) Days period.

iii) The Seller shall open a bank account at Mumbai (the "Seller's Designated Account") for all Tariff Payments (including Supplementary Bills) to be made by Procurer to the Seller, and notify Procurer of the details of such account at least sixty (60) Days before the dispatch of the first Monthly Bill. Procurer shall also designate a bank account at Mumbai ("Procurer's Designated



Account") for payments to be made by the Seller to Procurer, if any, and notify the Seller of the details of such account sixty (60) Days before the Scheduled Commencement Date. Procurer and the Seller shall instruct their respective bankers to make all payments under this Agreement to the Seller's Designated Account or Procurer's Designated Account, as the case may be, and shall notify either Party of such instructions on the same day.

9.3.3 Late Payment Surcharge

In the event of delay in payment of a Monthly Bill by Procurer beyond its Due Date, a Late Payment Surcharge shall be payable to the Seller at the rate of 1.25% per month on the outstanding amount calculated on a day to day basis. The Late Payment Surcharge shall be claimed by the Seller through the Supplementary Bill.

9.4 Payment Security Mechanism

Letter of Credit (LC):

9.4.1 Procurer shall provide to the Seller, in respect of payment of its Monthly Bills and/or Supplementary Bills, a monthly unconditional, revolving and irrevocable letter of credit ("Letter of Credit"), opened and maintained by the Procurer which may be drawn upon by the Seller in accordance with this Article.

9.4.2 Not later than one (1) Month before the start of supply, Procurer through a scheduled bank at Mumbai open a Letter of Credit in favour of the Seller, to be made operative from a date prior to the Due Date of its first Monthly Bill under this Agreement. The Letter of Credit shall have a term of twelve (12) Months and shall be renewed annually, for an amount equal to;

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

9.4.3 Provided that the Seller 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 drawl in a Month.

9.4.4 Provided further that if at any time, such Letter of Credit amount falls short of the amount specified in Article 9.4.2 due to any reason whatsoever, Procurer shall restore such shortfall within seven (7) days.

9.4.5 Procurer shall cause the scheduled bank issuing the Letter of Credit to intimate the Seller, in writing regarding establishing of such irrevocable Letter of Credit.

9.4.6 Procurer shall ensure that the Letter of Credit shall be renewed not later than thirty (30) days prior to its expiry.

9.4.7 All costs relating to opening, maintenance of the Letter of Credit shall be borne by Procurer.

9.4.8 If Procurer fails to pay a Monthly Bill or Supplementary Bill or part thereof within and including the Due Date, then, subject to Article 9.4.6, the Seller may draw



upon the Letter of Credit, and accordingly the bank shall pay without any reference or instructions from Procurer, an amount equal to such Monthly Bill or Supplementary Bill or part thereof, if applicable, in accordance with Article 9.3.3 above, by presenting to the scheduled bank issuing the Letter of Credit, the following documents:

- i) a copy of the Monthly Bill or Supplementary Bill which has remained unpaid to Seller and;
- ii) a certificate from the Seller 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;

9.5 **Rebate**

9.5.1 For payment of bills by the Procurer to the Seller through a letter of credit, a rebate of 2% of the Monthly Bill shall be allowed.

9.5.2 For payment of bills other than through letter of credit within a period of one month of presentation of bills by the Seller, a rebate of 1% shall be allowed.

9.5.3 For the above purpose, the date of presentation of bill shall be same day in case it is delivered on or before 12:00 noon, else it would be the next Business Day

9.5.4 No Rebate shall be payable on the Bills raised on account of Change in Law relating to taxes, duties and cess.



10. ARTICLE 10: Dispute in Billing

10.1 Dispute in Billing

- 10.1.1 If the Procurer does not dispute a Monthly Bill or a Supplementary Bill raised by the Seller by the Due Date, such Bill shall be taken as conclusive.
- 10.1.2 If the Procurer disputes the amount payable under a Monthly Bill or a Supplementary Bill, as the case may be, it shall pay 95% of the disputed amount and it shall within fifteen (15) days of receiving such Bill, issue a notice (the "Bill Dispute Notice") to the invoicing Party setting out:
- i) the details of the disputed amount;
 - ii) its estimate of what the correct amount should be; and
 - iii) all written material in support of its claim.
- 10.1.3 If the Seller agrees to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.1.2, the Seller 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.
- 10.1.4 If the Seller does not agree to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.1.2, it shall, within fifteen (15) days of receiving the Bill Dispute Notice, furnish a notice (Bill Disagreement Notice) to the Procurer providing:
- i) reasons for its disagreement;
 - ii) its estimate of what the correct amount should be; and
 - iii) all written material in support of its counter-claim.
- 10.1.5 Upon receipt of the Bill Disagreement Notice by the Procurer under Article 10.1.4, authorized representative(s) or a director of the board of directors/ member of board or authorized representatives of the Procurer and Seller shall meet and make Procurer endeavours to amicably resolve such dispute within fifteen (15) days of receipt of the Bill Disagreement Notice.
- 10.1.6 If the Parties do not amicably resolve the Dispute within fifteen (15) days of receipt of Bill Disagreement Notice pursuant to Article 10.1.4, the matter shall be referred to Dispute resolution in accordance with Article 16.
- 10.1.7 For the avoidance of doubt, it is clarified that despite a Dispute regarding an Invoice, Procurer shall, without prejudice to its right to Dispute, be under an obligation to make payment of 95% of the Disputed Amount in the Monthly Bill.



10.2 Bi-Annual Reconciliation

- 10.2.1 The Parties acknowledge that all payments made against Monthly Bills and Supplementary Bills shall be subject to bi-annual reconciliation at the beginning of the 3rd quarter of each Contract Year and second reconciliation at the end of each Contract Year within 30 days of the end of that respective quarter to take into account the Energy Accounts, Tariff adjustment payments, Tariff Rebate, Late Payment Surcharge, or any other reasonable circumstance provided under this Agreement.
- 10.2.2 The Parties, therefore, agree that as soon as all such data in respect of any month of a Contract Year or a full Contract Year as the case may be has been finally verified and adjusted, the Seller and Procurer shall jointly sign such reconciliation statement. Within fifteen (15) days of signing of a reconciliation statement, the Seller 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.

10.3 Payment of Supplementary Bill

- 10.3.1 Seller may raise a ("Supplementary Bill") for payment on account of:
- i) Adjustments required by the Energy Accounts (if applicable); or
 - ii) Change in Law as provided in Article 12, or
- and such Supplementary Bill shall be paid by the other Party.
- 10.3.2 Procurer shall remit all amounts due under a Supplementary Bill raised by the Seller to the Seller's Designated Account by the Due Date. For such payments by Procurer, Rebate as applicable to Monthly Bills pursuant to Article 9.5 shall equally apply.
- 10.3.3 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 9.3.3.



Handwritten signature



11. ARTICLE 11: FORCE MAJEURE

11.1 Definitions

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

11.2 Affected Party

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

11.3 Force Majeure

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

- a) Act of God, including, but not limited to lightning, drought, fire and explosion (to the extent originating from a source external to the site), earthquake, volcanic eruption, landslide, flood, cyclone, typhoon or tornado;
- 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;) 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



by



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.

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.

11.5.2 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.

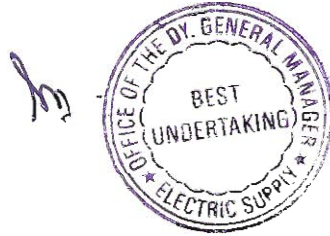
11.7 Available Relief for a Force Majeure Event

11.7.1 Subject to this Article:

- (a) no Party shall be in breach of its obligations pursuant to this Agreement except to the extent that the performance of its obligations was prevented, hindered or delayed due to a Force Majeure Event;
- (b) every Party shall be entitled to claim relief in relation to a Force Majeure Event in regard to its obligations, including but not limited to those specified under Article 4.5;



- (c) For avoidance of doubt, neither Party's obligation to make payments of money due and payable prior to occurrence of Force Majeure events under this Agreement shall be suspended or excused due to the occurrence of a Force Majeure Event in respect of such Party.
- (d) Provided that no payments shall be made by either Party affected by a Force Majeure Event for the period of such event on account of its inability to perform its obligations due to such Force Majeure Event.



12. 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 Effective Date resulting into any additional recurring/ non-recurring expenditure by the Seller or any income to the Seller:

- 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;
- 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;
- the imposition of a requirement for obtaining any Consents, Clearances and Permits which was not required earlier;
- 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 Seller;
- any change in tax or introduction of any tax made applicable for supply of power by the Seller as per the terms of this Agreement.

but shall not include (i) any change in any withholding tax on income or dividends distributed to the shareholders of the Seller, or (ii) any change on account of regulatory measures by the Appropriate Commission.

12.2 Relief for Change in Law

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

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



13. ARTICLE 13: EVENTS OF DEFAULT AND TERMINATION

13.1 *Seller Event of Default*

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

- (i) the failure to commence supply of power to Procurer up to the Contracted Energy, by the end of the period specified in Article 4, or
- (ii) If the Seller fails to supply energy for a continuous period of three months for what so ever reason except due to Force Majeure event.
- (iii) Failure to follow the grid discipline in accordance with Grid Code
- (iv) Any other reason which will act against the interest of Procurer's consumers.
- (v) Seller's failure to commence Commercial Operations within 12 (twelve) months from the date of Signing of PPA, except to the extent such failure is attributable to an event of Force Majeure or to the Procurer in any manner.
- (vi) if (a) the Seller becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of thirty (30) days, or (b) any winding up or bankruptcy or insolvency order is passed against the Seller, or (c) the Seller 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 Seller will not be a Seller 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 Seller and expressly assumes all obligations of the Seller under this Agreement and is in a position to perform them; or

- (vii) the Seller repudiates this Agreement and does not rectify such breach within a period of sixty (60) days from a notice from Procurer in this regard; or
- (viii) except where due to any Procurer's failure to comply with its material obligations, the Seller is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the Seller within sixty (60) days of receipt of first notice in this regard given by Procurer.
- (ix) occurrence of any other event which is specified in this Agreement to be a material breach/ default of the Seller.

13.2 *Procurer 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 Seller of its obligations under this Agreement, shall constitute a Procurer Event of Default on the



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part of defaulting Procurer:

- (i) Procurer fails to pay (with respect to a Monthly Bill or a Supplementary Bill), subject to Article 10.5, for a period of ninety (90) days after the Due Date and the Seller is unable to recover the amount outstanding to the Seller through the Letter of Credit
- (ii) Procurer repudiates this Agreement and does not rectify such breach even within a period of thirty (30) days from a notice from the Seller in this regard; or
- (iii) except where due to any Seller's failure to comply with its obligations, Procurer is in material breach of any of its obligations pursuant to this Agreement, and such material breach is not rectified by Procurer within thirty (30) days of receipt of notice in this regard from the Seller to Procurer; or
- (iv) if Procurer 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 Procurer
- (v) Procurer 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,
- (vi) Provided that it shall not constitute a Procurer Event of Default, where such dissolution or liquidation of Procurer or Procurer 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 Procurer and expressly assumes all obligations of Procurer and is in a position to perform them; or;
- (vii) occurrence of any other event which is specified in this Agreement to be a material breach or default of Procurer.

13.3 Procedure for cases of Seller Event of Default

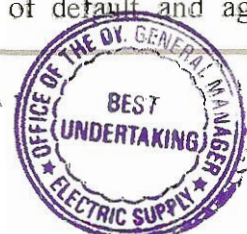
13.3.1 Upon the occurrence and continuation of any Seller Event of Default under Article 13.1, Procurer shall have the right to deliver to the Seller, a notice stating its intention to terminate this Agreement (Procurer Preliminary Default Notice), which shall specify in reasonable detail, the circumstances giving rise to the issue of such notice

13.3.2 Unless the Seller Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, within a period of seven (7) days following the expiry of the Consultation Period of sixty (60) days or such longer period as the Parties may agree, Procurer may terminate this Agreement by giving a written Termination Notice of thirty (30) days to the Seller.

13.3.3 Provided further that in the case of Seller Event of default and agreement is



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terminated, the Procurer may terminate this Agreement by delivering a Termination Notice to Procurer and in such an event Seller shall have liability to make payment within 30 days from the date of termination notice toward compensation to Procurer equivalent to three years billing based on the applicable tariff as under this agreement

13.4 Procedure for cases of Procurer Event of Default

- 13.4.1 Upon the occurrence and continuation of any Procurer Event of Default specified in Article 13.2 the Seller shall have the right to deliver to Procurer, a Seller 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 Seller 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 seven (7) days following the expiry of the Consultation Period and unless the Parties shall have otherwise agreed to the contrary or Procurer Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, the Seller shall be free to sell the Contracted Energy to any third party of the Seller's choice.

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 Seller.

- 13.4.4 Provided further that in the case of Procurer Event of default and agreement is terminated, the Seller may terminate this Agreement by delivering a Termination Notice to Procurer and in such an event Procurer shall have liability to make payment within 30 days from the date of termination notice toward compensation to Seller equivalent to three years billing based on the applicable tariff as under this agreement.

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.



14. ARTICLE 14: LIABILITY AND INDEMNIFICATION

14.1 Indemnity

14.1.1 The Seller shall indemnify, defend and hold Procurer harmless against:

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

14.1.2 Procurer shall indemnify, defend and hold the Seller harmless against:

- a) any and all third party claims against the Seller, 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 Procurer 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 Seller from third party claims arising by reason of a breach by Procurer 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.

The Indemnified Party may contest the claim by referring to the Arbitrator for



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

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

14.3 Indemnifiable Losses

14.3.1 Where an Indemnified Party is entitled to Indemnifiable Losses from the Indemnifying Party pursuant to Article 14.1.1(b) or 14.1.2(b), the Indemnified Party shall promptly notify the Indemnifying Party of the Indemnifiable Losses actually incurred by the Indemnified Party. The Indemnifiable Losses shall be reimbursed by the Indemnifying Party within thirty (30) days of receipt of the notice seeking Indemnifiable Losses by the Indemnified Party. In case of non-payment of such losses after a valid notice under this Article, such event shall constitute a payment default under Article 13.

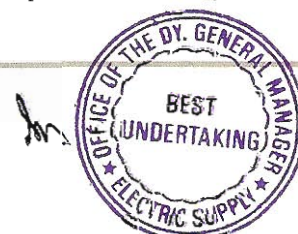
14.4 Limitation on Liability

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

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

14.5 Duty to Mitigate

14.5.1 The Parties shall endeavor to take all reasonable steps so as mitigate any loss or damage which has occurred under this Article



15. ARTICLE 15: ASSIGNMENTS AND CHARGES

15.1 *Assignments*

This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns. This Agreement shall not be assigned by any Party other than by mutual consent between the Parties to be evidenced in writing.

Provided that, Procurer permits assignment of any of Sellers rights and obligations under this Agreement in favour of the lenders to the Seller, if required under the Financing Agreements.

Provided that, such consent shall not be withheld by the Seller if Procurer seeks to transfer to any affiliate all of its rights and obligations under this Agreement.

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

15.2 *Permitted Charges*

15.2.1 Seller 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.



16. 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) 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 meet to settle such Dispute amicably. If the Parties fail to resolve the Dispute amicably within thirty (30) days from the later of the dates mentioned in this Article 16.2.1, the Dispute shall be referred for dispute resolution in accordance with Article 16.3

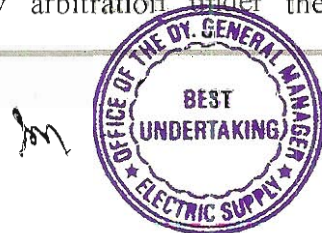
16.3 *Dispute Resolution*

16.3.1 *Dispute Resolution by the Appropriate Commission*

- iv. Where any Dispute (a) arises from a claim made by any Party for any change in terms related to tariff and open access conditions of this agreement or (b) relates to any matter agreed to be referred to the Appropriate Commission, such Dispute shall be submitted to adjudication by the Maharashtra Electricity Regulatory Commission.

16.3.2 *Dispute Resolution through Arbitration*

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 Indian



Arbitration and Conciliation Act, 1996 as under provided not settled amicably as per Article

16.2.1:

- i) The Arbitration Tribunal shall consist of three (3) Arbitrators. Each party shall appoint one Arbitrator within 30 days of the receipt of request for settlement of dispute by Arbitration. The two appointed Arbitrators shall within 30 days of their appointment, appoint a third Arbitrator who shall act as presiding Arbitrator. In case the party fails to appoint an Arbitrator within 30 days from the date of receipt of request or the two appointed Arbitrator fails to agree on third Arbitrator within 30 days of their appointment, the appointment of Arbitrator, as the case may be, shall be made in accordance with the Indian Arbitration and Conciliation Act, 1996
- 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.

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 Central Commission or the Arbitration Tribunal may otherwise direct by a final or interim order, the Parties hereto shall continue to perform their respective obligations (which are not in dispute) under this Agreement.



17. ARTICLE 17: MISCELLANEOUS PROVISIONS

17.1 *Amendment*

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

17.2 *Third Party Beneficiaries*

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

17.3 *Waiver*

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

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

17.4 *Confidentiality*

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

- a) to their professional advisors;
- b) to their officers, contractors, employees, agents or representatives, financiers, who need to have access to such information for the proper performance of their activities; or
- c) disclosures required under Law.

Without the prior written consent of the other Party

17.5 *Severability*

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



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17.6.2 If to the Seller, 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: 7th Floor, Welspun House, Kamala City, Senapati Bapat Marg,
Lower Parel, Mumbai – 400013

Attention: Ms Jyoti Mistry

Email: jyoti_mistry@welspun.com

Fax. No.: 022 24908020

Telephone No.: 022 66136000 Ext 6405 / 9664455974

17.6.3 If to Procurer, 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: BEST Undertaking, 1st Floor, Multistoried Annexe Building,
Colaba, Mumbai - 400001

Attention: Chief Engineer (Regulatory Cell)

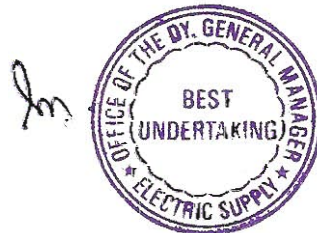
Email: cerc@bestundertaking.com

Fax. No.: 022 22824978

Telephone No.: 022 22799567

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

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

17.10 Independent Entity

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

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

17.11 Compliance with Law

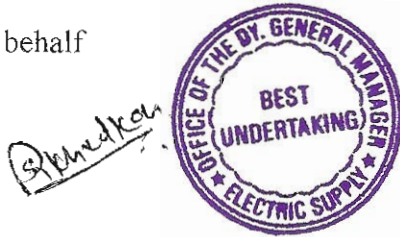
Despite anything contained in this Agreement but without prejudice to this Article, if any provision of this Agreement shall be in deviation or inconsistent with or repugnant to the provisions contained in the Electricity Act, 2002 or any rules



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.

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
[Procurer]



Name, Designation and
Address
MR. SHRIKANT R. KHEDKAR
Deputy General Manager
Electric Supply

Witness

1. R.D. Patil
2. Anand V. Kadam

For and on behalf of
[Seller]



Name, Designation and Address
MR. VINEET MITAL
CO-FOUNDER AND MANAGING DIRECTOR

Witness

1. SRIRAM RAMAMURTHY
2. VINOD JAGDHANE