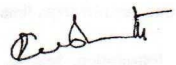


ARTICLE 9: DISPATCH

9.1 Dispatch

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


General Manager (Elec),
PP, BESCOM, B'lore.



ARTICLE 11: INSURANCES**11.1 Insurance**

The Developer shall effect and maintain or cause to be effected and maintained, at its own cost and expense, throughout the Term of this Agreement, Insurances against such risks, with such deductibles and with such endorsements and co-insured(s), which the Prudent Utility Practices would ordinarily merit maintenance of and as required under the Financing Agreements

11.2 Application of Insurance Proceeds

11.2.1 Save as expressly provided in this Agreement or the Insurances, the proceeds of any insurance claim made due to loss or damage to the Power Project or any part of the Power Project shall be first applied to reinstatement, replacement or renewal of such loss or damage.

11.2.2 If a Force Majeure Event renders the Power Project no longer economically and technically viable and the insurers under the Insurances make payment on a "total loss" or equivalent basis, BESCOM shall have no claim on such proceeds of such Insurance.

11.3 Effect on liability of BESCOM

Notwithstanding any liability or obligation that may arise under this Agreement, any loss, damage, liability, payment, obligation or expense which is insured or not or for which the Developer can claim compensation, under any Insurance shall not be charged to or payable by BESCOM.


General Manager (Elec),
PP, BESCOM, B'lore.



ARTICLE 13: BILLING AND PAYMENT**13.1 General**

- 13.1.1 On achievement of COD and thereon commencement of supply of power, BESCOM shall pay to the Developer the monthly Tariff Payments, on or before the Due Date, in accordance with Article 12. All Tariff Payments by BESCOM shall be in Indian Rupees.

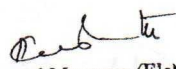
13.2 Delivery and Content of Monthly Bills/Supplementary Bills

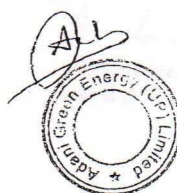
- 13.2.1 The Developer shall issue to BESCOM a signed monthly bill/Supplementary Bill for the immediately preceding Month between the 5th day upto the 15th day of the next Month. In case the monthly bill/Supplementary Bill for the immediately preceding Month is issued after the 15th day of the next Month, the Due Date for payment of such monthly bill/Supplementary Bill shall be as detailed of Article 13.3.1 below.
- 13.2.2 Each monthly bill shall include all charges as per this Agreement for the energy supplied for the relevant Month based on Energy Accounts issued by RLDC/SLDC or any other competent authority which shall be binding on both the Parties. The monthly bill amount shall be the product of the energy metered and the applicable Tariff.

13.3 Payment of Monthly Bills

- 13.3.1 BESCOM 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 Developer to the BESCOM to such account of the Developer, as shall have been previously notified by the Developer in accordance with article (c) of Clause 13.3.2 below. In case the monthly bill or any other bill, including a Supplementary Bill is issued after the 15th (fifteenth) day of the next month, the Due Date for payment would be 5th (fifth) day of the next month to the succeeding Month.
- 13.3.2 All payments required to be made under this Agreement shall also include any deduction or set off for:
- deductions required by the Law; and
 - amounts claimed by BESCOM, if any, from the Developer, through an invoice to be payable by the Developer, and not disputed by the Developer 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 BESCOM shall be entitled to claim any set off or deduction under this Article, after expiry of the said fifteen (15) Days period.

The Developer shall open a bank account at Bengaluru (the "Developer's Designated Account") for all Tariff Payments (including Supplementary Bills) to be made by


General Manager (Ele),
PP, BESCOM, B'lore.



- 13.6.3 Provided that the Developer shall not draw upon such Letter of Credit prior to the Due Date of the relevant Monthly Bill and/or Supplementary Bill, and shall not make more than one drawal in a Month.
- 13.6.4 Provided further that if at any time, such Letter of Credit amount falls short of the amount specified in Article 13.6.2 due to any reason whatsoever, BESCOM shall restore such shortfall within seven (7) days.
- 13.6.5 BESCOM shall cause the scheduled bank issuing the Letter of Credit to intimate the Developer, in writing regarding establishing of such irrevocable Letter of Credit.
- 13.6.6 BESCOM shall ensure that the Letter of Credit shall be renewed not later than 30(thirty) days prior to its expiry.
- 13.6.7 All costs relating to opening, maintenance of the Letter of Credit shall be borne by BESCOM.
- 13.6.8 If BESCOM fails to pay a Monthly Bill or Supplementary Bill or part thereof within and including the Due Date, then, subject to Article 13.6.6, the Developer may draw upon the Letter of Credit, and accordingly the bank shall pay without any reference or instructions from BESCOM, an amount equal to such Monthly Bill or Supplementary Bill or part thereof, if applicable, by presenting to the scheduled bank issuing the Letter of Credit, the following documents:
- a) a copy of the Monthly Bill or Supplementary Bill which has remained unpaid to Developer and;
 - b) a certificate from the Developer 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;

13.7 Disputed Bill

- 13.7.1 If the BESCOM does not dispute a Monthly Bill or a Supplementary Bill raised by the Developer by the Due Date, such Bill shall be taken as conclusive subject to reconciliation as per Clause 13.8.
- 13.7.2 If the BESCOM 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:
- a) the details of the disputed amount;
 - b) its estimate of what the correct amount should be; and
 - c) all written material in support of its claim.

- 13.7.3 If the Developer agrees to the claim raised in the Bill Dispute Notice issued pursuant to Article 13.7.2, the Developer shall revise such Bill and present along with the next Monthly


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13.9 Payment of Supplementary Bill

13.9.1 Developer may raise a ("Supplementary Bill") for payment on account of:

- a) Adjustments required by the Energy Accounts (if applicable); or
- b) Tariff payment for change in parameters, or
- c) Change in Law as provided in Article 15, or

13.9.2 BESCOM shall remit all amounts due under a Supplementary Bill raised by the Developer to the Developer's Designated Account by the Due Date. For such payments by BESCOM, Rebate as applicable to Monthly Bills pursuant to Article 13.5 shall equally apply.

13.9.3 In the event of delay in payment of a Supplementary Bill by either Party beyond its Due Date, a Late Payment Surcharge shall be payable at the same terms applicable to the Monthly Bill in Article 13.4.


General Manager (Ele),
PP, BESCOM, B'lore.



14.4 Force Majeure Exclusions

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

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

14.5 Notification of Force Majeure Event

14.5.1 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.

14.5.2 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.

14.6 Duty to Perform and Duty to Mitigate

14.6.1 To the extent not prevented by a Force Majeure Event pursuant to Article 14.3, the Affected Party shall continue to perform its obligations pursuant to this Agreement. The


General Manager (Elec),
PP, BESCOM, B'lore.



ARTICLE 15: CHANGE IN LAW**15.1 Definitions**

In this Article 15, the following terms shall have the following meanings:

15.1.1 "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 Developer or any income to the Developer:


- a. the enactment, coming into effect, adoption, promulgation, amendment, modification or repeal (without re-enactment or consolidation) in India, of any Law, including rules and regulations framed pursuant to such Law;
- b. a change in the interpretation or application of any law by any Governmental Instrumentality having the legal power to interpret or apply such Law, or any Competent Court of Law;
- c. the imposition of a requirement for obtaining any Consents, Clearances and Permits which was not required earlier;
- d. a change in the terms and conditions prescribed for obtaining any Consents, Clearances and Permits or the inclusion of any new terms or conditions for obtaining such Consents, Clearances and Permits; except due to any default of the Developer;
- e. any change in tax or introduction of any tax made applicable for supply of power by the Developer 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 Developer, or (ii) any change on account of regulatory measures by the KERC, or (iii) any change in the KERC approved Tariff as compared to the approved tariff exist as on the Bid Due Date.

15.2 Relief for Change in Law

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

15.2.2 The decision of the KERC 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.


General Manager (Elec),
PP, BESCOM, B'lore.



- j) A default has occurred under any of the Financing Documents and any of the lenders to the Project has recalled its financial assistance and demanded payment of the amounts outstanding under the Financing Documents or any of them as applicable; and
- k) The Developer has suffered an attachment levied on any of its assets which has caused or is likely to cause a Material Adverse Effect on the Project and such attachment has continued for a period exceeding 120 days.

16.2 Termination for BESCOM Event of Default

Save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and BESCOM fails to cure the default within the Cure Period set forth below, or where no Cure Period is specified, then within a Cure Period of 30 (thirty) days, BESCOM shall be deemed to be in default of this Agreement (a "BESCOM Event of Default"), unless the default has occurred solely as a result of any breach of this Agreement by Developer or due to Force Majeure. The defaults referred to herein shall include the following:

- a) BESCOM has unreasonably withheld or delayed grant of any approval or permission which the Developer is obliged to seek under this Agreement, and thereby caused or likely to cause Material Adverse Effect;
- b) BESCOM is in material breach of any of its obligations, under this Agreement and has failed to cure such breach within 90 (Ninety) days of receipt of notice thereof issued by the Developer and which has led to the Project forfeiting the benefits accruing under Applicable Law;
- c) BESCOM has unlawfully repudiated this Agreement or otherwise expressed its intention not to be bound by this Agreement;
- d) Any representation made or warranty given by BESCOM under this Agreement has been found to be false or misleading.

16.3 Procedure for cases of Developer Event of Default

- 16.3.1 Upon the occurrence and continuation of any Developer Event of Default under Article 16.1, BESCOM shall be entitled to terminate this Agreement by issuing a notice stating its intention to terminate this Agreement (BESCOM Preliminary Default Notice), which shall specify in reasonable detail, the circumstances giving rise to the issue of such notice.
- 16.3.2 Following the issue of a BESCOM 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.


General Manager (Ele),
PP, BESCOM, B'lore.



ARTICLE 17: Liability and Indemnification**17.1 Indemnity**

17.1.1 The Developer shall indemnify, defend and hold BESCOM harmless against:

- a) any and all third party claims against BESCOM 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 Developer 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 BESCOM from third party claims arising by reason of a breach by the Developer of any of its obligations under this Agreement, (provided that this Article 17 shall not apply to such breaches by the Developer, for which specific remedies have been provided for under this Agreement)

17.1.2 BESCOM shall indemnify, defend and hold the Developer harmless against:

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

17.2 Procedure for claiming Indemnity

17.2.1 Third party claims

- a) Where the indemnified party is entitled to indemnification from the indemnifying party pursuant to Article 17.1.1(a) or 17.1.2(a), the Indemnified Party shall promptly notify the Indemnifying Party of such claim referred to in Article 17.1.1(a) or 17.1.2(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 contest the claim of third party; and
 - ii. the claim amount is not required to be paid/ deposited to such third party pending the resolution of the third party claim, 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 third party claim, if such claim is settled in favour of the third party.
- b) The Indemnified Party may contest the claim of the third party for which it is entitled to be indemnified under Article 17.1.1(a) or 17.1.2(a) and the


General Manager (Ele),
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17.5 Duty to Mitigate

17.5.1 The Parties shall endeavour to take all reasonable steps so as mitigate any loss or damage which has occurred under this Article 17.


General Manager (Ele),
PP, BESCOM, B'lore.



18.4 Arbitration**a. Procedure**

It is agreed by the Parties that, any disputes or claims arising out of this Agreement shall be settled by the sole or several arbitrators appointed in accordance with The Arbitration Centre-Karnataka (Domestic and International), Rules 2012.

b. Place of Arbitration

The place of arbitration shall ordinarily be Bengaluru but by agreement of the Parties, the arbitration hearings, if required, may be held elsewhere.

c. English Language

The request for arbitration, the answer to the request, the terms of reference, any written submissions, any orders and awards shall be in English and, if oral hearings take place, English shall be the language to be used in the hearings.

d. Survival of Termination

The provisions of this Article shall survive the termination of this Agreement for any reason whatsoever.

e. Majority Decision

The award shall be of majority decision. If there is no majority, the award will be given by the presiding Arbitrator.

f. Enforcement of Award

The Parties agree that the decision or award resulting from arbitration shall be final and binding upon the Parties and shall be enforceable in accordance with the provisions of the Arbitration Centre - Karnataka (Domestic and International), Rules 2012 subject to the rights of the aggrieved parties to secure relief from any higher forum.

18.5 Performance during Dispute

18.5.1 Pending the submission of and/or decision on a Dispute by KERC, the Parties shall continue to perform their respective obligations under this Agreement, subject to any interim order that may be passed by KERC, without prejudice to a final adjustment in accordance with such decision by KERC.


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ARTICLE 20: Miscellaneous**20.1 Interest and Right of Set Off**

Any sum which becomes payable under any of the provisions of this Agreement by one Party to the other Party shall, if the same be not paid within the time allowed for payment thereof, shall be deemed to be a debt owed by the Party responsible for payment thereof to the Party entitled to receive the same. Such sum shall until payment thereof carry interest at prevailing medium term prime lending rate of State Bank of India per annum from the due date for payment thereof until the same is paid to or otherwise realised by the Party entitled to the same. Without prejudice to any other right or remedy that may be available under this Agreement or otherwise under law, the Party entitled to receive such amount shall also have the right of set off.

Provided the stipulation regarding interest for delayed payments contained in this Article 20.1 shall neither be deemed or construed to authorise any delay in payment of any amount due by a Party nor be deemed or construed to be a waiver of the underlying breach of payment obligations.

20.2 Confidentiality

20.2.1 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.
- d. without the prior written consent of the other Party.

20.3 Waiver of immunity

Each Party unconditionally and irrevocably:

- a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
- b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Party with respect to its assets;

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20.6.2 All obligations surviving Termination shall only survive for a period of 3 (three) years following the date of such Termination.

20.7 Entire Agreement

This Agreement and the Schedules together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn. For the avoidance of doubt, the Parties hereto agree that any obligations of the Developer arising from the Request for Proposal shall be deemed to form part of this Agreement and treated as such.

20.8 Severability

If for any reason whatever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to the Dispute Resolution Procedure set forth under this Agreement or otherwise.

20.9 No partnership

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership obligation or liability upon either Party, and neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

20.10 Third Parties

This Agreement is intended solely for the benefit of the Parties, and their respective successors and permitted assigns, and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Agreement.

20.11 Successors and assigns

This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns.


General Manager (Ele),
PP, BESCOM, B'lore.



ARTICLE 21: Definitions**21.1 Definitions**

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

"Accounting Year" means the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year.

"Act" or "Electricity Act, 2003" shall mean the Electricity Act, 2003 and include any modifications, amendments and substitution from time to time.

"Affected Party" shall have the meaning set forth in Clause 14.2.

"Agreement" or "Power Purchase Agreement" or "PPA" shall mean this Power Purchase Agreement including its recitals and Schedules, amended or modified from time to time in accordance with the terms hereof.

"Appropriate Commission" shall mean the Central Electricity Regulatory Commission referred to in sub-section (1) of section 76 or KERC.

"Applicable Laws" means all laws, brought into force and effect by GOI or the State Government including rules, regulations and notifications made thereunder, and judgments, decrees, injunctions, writs and orders of any court of record, applicable to this Agreement and the exercise, performance and discharge of the respective rights and obligations of the Parties hereunder, as may be in force and effect during the subsistence of this Agreement;

"Applicable Permits" means all clearances, licences, permits, authorisations, no objection certificates, consents, approvals and exemptions required to be obtained or maintained under Applicable Laws in connection with the construction, operation and maintenance of the Project Facilities during the subsistence of this Agreement;

"Arbitration Act" means the Arbitration and Conciliation Act, 1996 and shall include modifications to or any re-enactment thereof, as in force from time to time;

"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 Developer and BESCOM, a day other than Sunday or a statutory holiday, on which the banks remain open for business in Karnataka;

"Capacity Utilization Factor" or "CUF" Shall have the same meaning as provided in CERC (Terms and Conditions for Tariff determination from Renewable Energy Sources) Regulations, 2009 as amended from time to time.


General Manager (Ele),
PP, BESCOM, B'lore



on April 1 and ending on March 31 provided that:

- (i) in the financial year in which the Scheduled Commissioning Date would occur, the Contract Year shall end on the date immediately before the Scheduled Commissioning Date and a new Contract Year shall commence once again from the Scheduled Commissioning Date and end on the immediately succeeding March 31, and thereafter each period of twelve (12) months commencing on April 1 and ending on March 31, and
- (ii) provided further that the last Contract Year of this Agreement shall end on the last day of the Term of this Agreement.

"Contractor" means the person or persons excluding Other Developer, as the case may be, with whom the Developer has entered into any of the EPC Contract, the O&M Contract, or any other agreement or a material contract for construction, operation and/or maintenance of the Project or matters incidental thereto, but does not include a person who has entered into an agreement for providing financial assistance to the Developer.

"Cure Period" means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Party responsible for such breach or default and shall:

- a. commence from the date on which a notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice;
 - b. not relieve any Party from liability to pay Damages or compensation under the provisions of this Agreement; and
- provided that if the cure of any breach by the Developer requires any reasonable action by the Developer that must be approved by BESCOM or the Independent Engineer hereunder, the applicable Cure Period shall be extended by the period taken by BESCOM or the Independent Engineer to accord their approval;

"Delivery Point" shall mean point or points at which power supplied into the Grid System.

"Damages" shall have the meaning set forth in Sub-clause (w) of Clause 1.2.1;

"Developer" shall have the meaning attributed thereto in the array of Parties hereinabove as set forth in the Recitals;

"Developer Default" shall have the meaning set forth in Clause 16.1.1;

"Dispute" shall have the meaning set forth in Clause 18.2;

"Dispute Resolution Procedure" means the procedure for resolution of Disputes set forth in Article 18;

"Document" or "Documentation" means documentation in printed or written form, or in tapes, discs, drawings, computer programs, writings, reports, photographs, films, cassettes,


General Manager (Etc),
PP, BESCOM, B'lore.



"Govt" means Government of India.

"Good Industry Practice" means the practices, methods, techniques, designs, standards, skills, diligence, efficiency, reliability and prudence which are generally and reasonably expected from a reasonably skilled and experienced operator engaged in the same type of undertaking as envisaged under this Agreement and which would be expected to result in the performance of its obligations by the Developer in accordance with this Agreement, Applicable Laws and Applicable Permits in reliable, safe, economical and efficient manner;

"Government Instrumentality" means any department, division or sub-division of Government of India or the State Government and includes any commission board, authority, agency or municipal and other local authority or statutory body including Panchayat under the control of Government of India or the State Government, as the case may be, and having jurisdiction over all or any part of the Project Facilities or the performance of all or any of the services or obligations of the Developer under or pursuant to this Agreement;

"Grid Code" shall mean the Grid Code specified by the CERC under Clause (h) of Sub-section (1) of Section 79 of the Electricity Act, as amended from time to time.

"Grid System" means the Interconnection Facilities and any other transmission or distribution facilities through which the Developer supply electricity to BESCOM or BESCOM transmits electricity to their customer(s);


"Installed Capacity" shall mean (the name plate capacity of all the units of the Solar PV Project reckoned at Generator Terminals or the AC Rating of the Solar PV Project at Delivery Point).

"Insurances" shall mean the insurance cover to be obtained and maintained by the Developer in accordance with Article 11 of this Agreement.

"Interconnection Facilities" shall mean the facilities on Developer'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 10, the Metering System required for supply of power as per the terms of this Agreement.

"Invoice" or "Bill" shall mean either a Monthly Bill / Supplementary Bill or a Monthly Invoice/ Supplementary Invoice raised by any of the Parties.

"KERC" shall mean the Karnataka Electricity Regulatory Commission of India, constituted under sub - section (1) of Section 3 of the Karnataka Electricity Reforms Act, 1999 or its successors.


General Manager (Etc),
PP, BESCOM, B'lore.



"Performance Security" shall have the meaning set forth in Clause 4.4;

"Power Project" shall mean the solar power generation facility of Installed Capacity of 20 MW, located at Gubbi in Tumkuru District and Karnataka State;

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 16 of this Agreement.

"Project Agreements" means this Agreement, EPC Contract, O&M Contract and any other agreements or material contracts that may be entered into by the Developer with any person in connection with matters relating to, arising out of or incidental to the Project.

"Prudent Utility Practices" shall mean the practices, methods and standards that are generally accepted internationally from time to time by electric utilities for the purpose of ensuring the safe, efficient and economic design, construction, commissioning, operation and maintenance of power generation equipment and which practices, methods and standards shall be adjusted as necessary, to take account of:

- a) operation and maintenance guidelines recommended by the manufacturers of the plant and equipment to be incorporated in the Power Project;
- b) the requirements of Indian Law; and
- c) the physical conditions at the site of the Power Project

"Request for Proposals" or "RFP" shall have the meaning set forth in Recital (B);


"RBI" shall mean the Reserve Bank of India.

"Rebate" shall have the same meaning as ascribed thereto in Article 13.5 of this Agreement.

"RLDC" shall mean the relevant Regional Load Dispatch Centre established under Sub-section (1) of Section 27 of the Electricity Act, 2003.

"Rupees", "INR" shall mean Indian rupees, the lawful currency of India.

"Scope of the Project" shall have the meaning set forth in Clause 2.1;


General Manager (Ele),
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consultation with BESCOM/Independent Engineer.

"Total Project Cost" means the means the cost incurred by the Developer for development and construction of the Project Facilities, as determined by an independent firm of chartered accountants mutually agreed upon and appointed by the Parties.

"Week" shall mean a calendar week commencing from 00:00 hours of Monday, and ending at 24:00 hours of the following Sunday.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DAY, MONTH AND YEAR FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED

For and on behalf of BESCOM by

(Signature)

(Name) P. KRISHNA MURTHY

(Designation)

In presence of:

1. Malleswari
Deputy Gen. Manager (Elec)
PP - BESCOM, B'lore.
Asst. General Manager (Elec.)
Power Procurement, BESCOM.
Bangalore.
2. [Signature]

SIGNED, SEALED AND DELIVERED

For and on behalf of Developer by

(Signature)

(Name)

(Designation)

In presence of:

1. Subbarao
Vijay Vadhia
2. Singh
Pushkar Kumar Singh



AGECUP) Ltd.
Sambhar House, Judges,
Bungalow Road, Bodakdev,
Ahmedabad, Gujarat.

- do -



ARTICLE 10: METERING

10.1 Meters

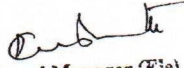
- 10.1.1 For installation of meters, meter testing, meter calibration and meter reading and all matters incidental thereto, the Developer and BESCOM shall follow and be bound by the Applicable Laws including Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, the Grid Code, as amended and revised from time to time.
- 10.1.2 The Developer shall bear all costs pertaining to installation, testing, calibration, maintenance, renewal and repair of meters at Developer's side of Delivery Point.

10.2 Measurement of Energy

Measurement of electrical energy shall be done at the Interconnection point or points by the metering system. It is pertinent to mention that the metering shall be done at the inter-connection point at the end of the substation.

10.3 Reporting of Metered Data and Parameters

- 10.3.1 The grid connected Solar PV ground mount Power Project will install necessary equipment for regular monitoring of solar irradiance (including DNI), ambient air temperature, wind speed and other weather parameters and simultaneously for monitoring of the electric power generated from the plant.
- 10.3.2 Online arrangement would have to be made by the Developer for submission of above data regularly for the entire period of this Power Purchase Agreement to BESCOM/KREDL.
- 10.3.3 Reports on above parameters on monthly basis shall be submitted by the Developer to BESCOM/KREDL through BESCOM for entire period of this Agreement.


General Manager (Elec),
PP, BESCOM, B'lore.



SCHEDULE 2

[Technical Qualification requirement in case of Solar PV Project]

The following are some of the technical measures required to ensure quality of the PV modules used in grid connected solar power projects.

1. PV Module Qualification

- 1.1 The PV modules used in the grid connected solar power projects must qualify to the latest edition of any of the following IEC PV module qualification test or equivalent BIS standards.

Crystalline Silicon Solar Cell Modules	IEC 61215
Thin Film Modules	IEC 61646
Concentrator PV modules	IEC 62108

- 1.2 In addition, PV modules must qualify to IEC 61730 for safety qualification testing. For the PV modules to be used in a highly corrosive atmosphere throughout their lifetime, they must qualify to IEC 61701.

2. Authorized Test Centers

The PV modules must be tested and approved by one of the IEC authorized test centers. In addition a PV module qualification test certificate as per IEC standard, issued by ETDC, Bangalore or Solar Energy Centre will also be valid. Ministry will review the list of authorized testing laboratories/centers from time to time.

3. Warranty

- The mechanical structures, electrical works and overall workmanship of the grid solar power plants must be warranted for a minimum of 5 years.
- PV modules used in grid connected solar power plants must be warranted for output wattage, which should not be less than 90% at the end of 10 years and 80% at the end of 25 years.

4. Identification and Traceability

Each PV module used in any solar power project must use a RF identification tag. The following information must be mentioned in the RFID used on each module (This can be inside or outside the laminate, but must be able to withstand harsh environmental conditions.)

- (i) Name of the manufacturer of PV Module
- (ii) Name of the Manufacturer of Solar cells
- (iii) Month and year of the manufacture (separately for solar cells and module)
- (iv) Country of origin (separately for solar cells and module)
- (v) I-V curve for the module
- (vi) Wattage, Im, Vm and FF for the module
- (vii) Unique Serial No and Model No of the module


General Manager (E&E),
PP, BESCOM, B'lore.



BESCOM to the Developer, and notify BESCOM of the details of such account at least 90 (ninety) days before the dispatch of the first monthly bill.

13.4 Late Payment Surcharge

In the event of delay in payment of a monthly bill by BESCOM within 30 (thirty) days beyond its Due Date, a late payment surcharge shall be payable to the Developer at the rate of 1.25% per month on the outstanding amount calculated on a day to day basis ("Late Payment Surcharge"). The Late Payment Surcharge shall be claimed by the Developer through the Supplementary Bill.

13.5 Rebate

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

- a) A Rebate of 2% shall be payable to the BESCOM for the payments made on the 5th Business Day of the Month.
- b) Any payments made beyond the 5th Business Day of the month upto the Due Date shall be allowed a rebate of 1%.
- c) Provided that, any payment made by BESCOM on date of presentation of Bill, a Rebate of 2% shall be payable, if bill is raised beyond 5th but by the 15th Business Day of the Month.
- d) 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.
- e) No Rebate shall be payable on the Bills raised on account of Change in Law relating to taxes, duties and cess.

13.6 Payment Security Mechanism

Letter of Credit (LOC):

- 13.6.1 BESCOM shall provide to the Developer, in respect of payment of its Monthly Bills and/or Supplementary Bills, a monthly unconditional, revolving and irrevocable letter of credit ("Letter of Credit"), opened and maintained which may be drawn upon by the Developer in accordance with this Article.
- 13.6.2 Not later than 1 (one) Month before the start of supply, BESCOM through a scheduled bank at Bengaluru open a Letter of Credit in favour of the Developer, to be made operative from a date prior to the Due Date of its first Monthly Bill under this Agreement. The Letter of Credit shall have a term of twelve (12) Months and shall be renewed annually, for an amount equal to:
 - a) the estimated average monthly billing for the first Contract Year;
 - b) the average of the monthly billing of the previous Contract Year for each subsequent Contract Year.


General Manager (Ele),
PP, BESCOM, B'lore



SCHEDULE 3

PERFORMANCE SECURITY
(PROFORMA OF BANK GUARANTEE)⁹

THIS DEED OF GUARANTEE executed on this the _____ day of _____ at _____ by _____ (Name of the Bank) having its Head / Registered office at _____ hereinafter referred to as "the Guarantor" which expression shall unless it be repugnant to the subject or context thereof include successors and assigns;

In favour of

_____, a Company incorporated under the Indian Companies Act, 1956 having its registered office at _____ (hereinafter referred to as "BESCOM", which expression shall, unless it be repugnant to the context or meaning thereof, include its administrators, successors, and assigns);

WHEREAS

- A. By the Power Purchase Agreement (the "Agreement") being entered into between BESCOM and _____¹⁰, a company incorporated under the provisions of the Companies Act, 1956/, having its registered office/ permanent address at _____ (hereinafter referred as "Developer"), has been granted the right to development of [Solar PV Power Plant] an hereinafter referred to as the Project.
- B. In terms of Article 4.4 of the Agreement, the Developer is required to furnish to BESCOM, an unconditional and irrevocable bank guarantee for an amount of INR _____/- (Rupees _____ Only) as security for due and punctual performance/discharge of its obligations under the Agreement.

At the request of the Developer, the Guarantor has agreed to provide guarantee, being these presents guaranteeing the due and punctual performance/discharge by the Company of its obligations under the Agreement relating to the Project.

NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS:

Capitalised terms used herein but not defined shall have the meaning assigned to them respectively in the Agreement.

1. The Guarantor hereby irrevocably guarantees the due and punctual performance by M/s. _____ of all its obligations relating to the Project during the Lease Period.

⁹ To be issued by a Scheduled Bank in India

¹⁰ Name of SPV


General Manager (Elec),
PP, BESCOM, B'lore.



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.

13.7.4 If the Developer does not agree to the claim raised in the Bill Dispute Notice issued pursuant to Article 13.7.2, it shall, within fifteen (15) days of receiving the Bill Dispute Notice, furnish a notice (the "Bill Disagreement Notice") to the BESCOM providing:

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

13.7.5 Upon receipt of the Bill Disagreement Notice by the BESCOM under Clause 13.7.4, authorized representative(s) or a director of the board of directors/ member of board of the BESCOM and Developer shall meet and make best endeavours to amicably resolve such dispute within fifteen (15) days of receipt of the Bill Disagreement Notice.

13.7.6 If the Parties do not amicably resolve the Dispute within fifteen (15) days of receipt of Bill Disagreement Notice pursuant to Article 13.7.4, the matter shall be referred to Dispute resolution in accordance with Article 18.

13.7.7 For the avoidance of doubt, it is clarified that despite a Dispute regarding an Invoice, BESCOM 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.

13.8 Quarterly and Annual Reconciliation

13.8.1 The Parties acknowledge that all payments made against Monthly Bills and Supplementary Bills shall be subject to quarterly reconciliation within 30 days of the end of the quarter at the beginning of the following quarter of each Contract Year and annual reconciliation at the end of each Contract Year within 30 days to take into account the Energy Accounts, Tariff adjustment payments, Tariff rebate, Late Payment Surcharge, or any other reasonable circumstance provided under this Agreement.

13.8.2 The Parties, therefore, agree that as soon as all such data in respect of any quarter of a Contract Year or a full Contract Year as the case may be has been finally verified and adjusted, the Developer and BESCOM shall jointly sign such reconciliation statement. Within fifteen (15) days of signing of a reconciliation statement, the Developer 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 18.


General Manager (Eic),
PP, BESCOM, B'lore.







ARTICLE 14: FORCE MAJEURE

14.1 Definitions

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

14.2 Affected Party

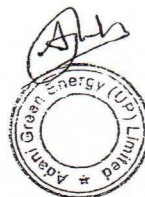
14.2.1 An Affected Party means BESCOM or the Developer whose performance has been affected by an event of Force Majeure.

14.3 Force Majeure

14.3.1 A 'Force Majeure' means any event or circumstance or combination of events including those stated below which 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, epidemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionising radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Site);
- b) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;
- c) compulsory acquisition in national interest or expropriation of any Project Assets or rights of the Developer or of the Contractors;
- d) any judgment or order of any court of competent jurisdiction or statutory authority made against the Developer in any proceedings for reasons other than (i) failure of the Developer to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement by the Government or
- e) unlawful or unauthorized or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, license, permit, authorization, no objection certificate, consent, approval or exemption required by the Developer or any of the Contractors to perform their respective obligations under this Agreement and the Project Agreements; provided that such delay, modification, denial, refusal or revocation did not result from the Developer's or any Contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, license, authorization, no objection certificate, exemption, consent, approval or permit.


General Manager (Elec),
PP, BESCOM, B'lore.



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- (viii) Date and year of obtaining IEC PV module qualification certificate
- (ix) Name of the test lab issuing IEC certificate
- (x) Other relevant information on traceability of solar cells and module as per ISO 9000

All grid solar PV power plants must install necessary equipment to continuously measure solar radiation, ambient temperature, wind speed and other weather parameters and simultaneously measure the generation of DC power as well as AC power generated from the plant. They will be required to submit this data to the Ministry on line and/ or through a report on regular basis for the entire duration of PPA

General Manager (Elec),
PP, BESCOM, B'lore.





Affected Party shall use its reasonable efforts to mitigate the effect of any Force Majeure Event as soon as practicable.

14.7 Available Relief for a Force Majeure Event

Subject to this Article 14:

- 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 5.7.1;
- 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.


General Manager (Elec),
PP, BESCOM, B'lore.



SCHEDULE 1- DETAILS ON INTEREST/TITLE OF DEVELOPER OVER THE LAND REQUIRED FOR PROJECT

1. Evidence of clear possession of the required land for the Project along with following documentary evidence: -
- o Ownership or lease hold rights (for atleast 30 years) in the name of the Developer and possession of 100% of the area of land required for the Project.
 - o Certificate by the concerned and competent revenue/registration authority for the acquisition / ownership/ vesting of the land in the name of the Developer and the land is suitable for industrial use.
 - o Sworn affidavit from the Authorized person of the Developer listing the details of the land and certifying total land required for the Project under clear possession of the Developer

A certified English translation from an approved translator in case above land documents are in language other than English or Kannada Languages


General Manager (Ele),
PP , BESCOM, B'lore.



ARTICLE 16: Termination**16.1 Termination for Developer Default**

16.1.1 Save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and the Developer fails to cure the default within the Cure Period set forth below, or where no Cure Period is specified, then within a Cure Period of 60 (sixty) days, the Developer shall be deemed to be in default of this Agreement (the "Developer Default"), unless the default has occurred solely as a result of any breach of this Agreement by BESCOM or due to Force Majeure. The defaults referred to herein shall include the following:

- a) The Developer has failed to achieve the COD beyond 120 (hundred and twenty) days of Scheduled Commissioning Date for Power Project for any reason whatsoever;
- b) The condition relating to equity lock-in period specified in Clause 5.2 of this Agreement is not complied with;
- c) the Performance Security has been encashed and appropriated in accordance with Clause 4.4(b) and the Developer fails to replenish or provide fresh Performance Security within a Cure Period of 30 (thirty) days;
- d) The Developer has unlawfully repudiated this Agreement or has otherwise expressed an intention not to be bound by this Agreement;
- e) The Developer is in material breach of any of its obligations pursuant to this Agreement, and such material breach is not rectified by the Developer within thirty (30) days of receipt of first notice in this regard given by BESCOM.
- f) The Developer is in material breach of any of its obligations under this Agreement and the same has not been remedied for more than 30 days;
- g) Any representation made or warranty given by the Developer under this Agreement is found to be false or misleading;
- h) A resolution has been passed by the shareholders of the Developer for voluntary winding up of the Developer;
- i) Any petition for winding up of the Developer has been admitted and liquidator or provisional liquidator has been appointed or the Developer has been ordered to be wound up by Court of competent jurisdiction, except for the purpose of amalgamation or reconstruction with the prior consent of BESCOM, provided that, as part of such amalgamation or reconstruction and the amalgamated or reconstructed entity has unconditionally assumed all surviving obligations of the Developer under this Agreement;


General Manager (E&T),
PP, BESCOM, B'lore.



"Scheduled Commissioning Date" shall mean 12 (twelve) months from the Effective Date.

"Senior Lenders" means the financial institutions, banks, multilateral lending agencies, trusts, funds and agents or trustees of debenture holders, including their successors and assignees, who have agreed to guarantee or provide finance to the Developer under any of the Financing Agreements for meeting all or any part of the Total Project Cost and who hold parri passu charge on the assets, rights, title and interests of the Developer;

"SLDC" shall mean the centre established under Sub-section (1) of Section 31 of the Electricity Act 2003, relevant for the State(s) where the Delivery Point is located.

"SLDC Charges" shall mean the charges levied by the SLDC of the state wherein the Solar Power Project is located.

"Solar 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 Developer to provide Solar Power to BESCOM as per the terms and conditions of this Agreement.

"Solar Power" Shall mean power generated from the Solar PV ground mount Project.

"State" means the State of Karnataka and "State Government" means the government of that State;

"State Transmission Utility" or "STU" shall mean Karnataka Power Transmission Corporation Limited or KPTCL.

"Tariff" Shall have the same meaning as provided for in Article 12 of this Agreement.

"Tariff Payment" shall mean the payments to be made under Monthly Bills as referred to in Article 13 and the relevant Supplementary Bills.

"Tax" means and includes all taxes, fees, cesses, duties (including stamp duties), levies that may be payable by the Developer for execution of the agreement and during the term of this Agreement under Applicable Law;

"Termination" means the expiry or termination of this Agreement and the Rights hereunder;

"Termination Notice" means the communication issued in accordance with this Agreement by one Party to the other Party terminating this Agreement;

"Term of Agreement" shall have the meaning ascribed thereto in Article 3 of this Agreement.

"Tests" means the tests to be carried out in accordance with the Specifications and Standards or the Maintenance Requirements and as finalised by the Developer in


General Manager (Ele),
PP, BESCOM, B'lore.



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

16.3.4 Within a period of seven (7) days following the expiry of the Consultation Period unless the Parties shall have otherwise agreed to the contrary or the Developer Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, BESCOM shall be entitled to terminate this Agreement by giving a written Termination Notice of thirty (30) days to the Developer.

16.4 Procedure for cases of BESCOM Event of Default

16.4.1 Upon occurrence and continuation of any BESCOM Event of Default specified in Article 16.2 the Developer shall have the right to deliver to BESCOM, a Developer Preliminary Default Notice, which notice shall specify in reasonable detail the circumstances giving rise to its issue.

16.4.2 Following the issue of a Developer 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.

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

16.4.4 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 BESCOM Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, the Developer shall be entitled to sell the Contracted Capacity to any third party of the Developers choice.

Provided further that at the end of three (3) months period from the period mentioned in this Article 16.4.4, this Agreement may be terminated by the Developer.


General Manager (Ele),
PP, BESCOM, B'lore.



"Late Payment Surcharge" shall have the meaning ascribed thereto in Article 13.4 of this Agreement.

"Law" shall mean in relation to this Agreement, all laws including Electricity Laws in force in India and any statute, ordinance, regulation, notification or code, rule, or any interpretation of any of them by an Indian Governmental Instrumentality and having force of law and shall further include without limitation all applicable rules, regulations, orders, notifications by an Indian Governmental Instrumentality pursuant to or under any of them and shall include without limitation all rules, regulations, decisions and orders of the KERC;

"Letter of Credit" or "LOC" shall have the meaning ascribed thereto in Clause 13.6.1 of this Agreement.

"Lead Member" shall have the meaning set forth in Recital (B);

"Lenders' Representative" means the person duly authorised by the Senior Lenders to act for and on behalf of the Senior Lenders with regard to matters arising out of or in relation to this Agreement, and includes his successors, assigns and substitutes;

"LOA" or "Letter of Acceptance" means the letter of acceptance referred to in Recital (C);

"Month" shall mean a period of thirty (30) days from (and excluding) the date of the event, where applicable, else a calendar month.


"Material Adverse Effect" means a material adverse effect of any act or event on the ability of either Party to perform any of its obligations under and in accordance with the provisions of this Agreement and which act or event causes a material financial burden or loss to either Party.

"O&M" means the operation and maintenance of the Project Facilities and includes all matters connected with or incidental to such operation and maintenance, provision of services and facilities in accordance with the provisions of this Agreement;

"Other Developer" shall mean all the bidders other than the Single Business Entity/Consortium, declared as Selected Bidder under the RFP and the SPV, if any formed by such Selected Bidders, with whom the Power Purchase Agreements are executed in accordance with the provisions of the RFP to undertake any Project(s) thereunder.

"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 13.6 of this Agreement.


General Manager (Elec),
PP, BESCOM, Bangalore.



indemnified 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.

17.3 Indemnifiable Losses

17.3.1 Where an Indemnified Party is entitled to Indemnifiable Losses from the indemnifying party pursuant to Article 17.1.1(b) or 17.1.2(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 17, such event shall constitute a payment default under Article 16.

17.4 Limitation on Liability

17.4.1 Except as expressly provided in this Agreement, neither the Developer nor BESCOM 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 BESCOM, the Developer or others), strict liability, contract, breach of statutory duty, operation of law or otherwise.

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


General Manager (Elec.),
PP, BESCOM, B'lore.



or expressed in any other written, electronic, audio or visual form;

"Due Date" shall have the same meaning ascribed thereto in Article 13 of this Agreement.

"Effective Date" shall mean date of Approval of PPA by KERC;

"Electricity Laws" shall mean the Electricity Act, 2003 and the rules and regulations made there under from time to time along with amendments thereto and replacements thereof and any other Law pertaining to electricity including regulations framed by the Appropriate Commission.

"Emergency" means a condition or situation that is likely to endanger the security of the individuals on or about the Project Facilities, including Users thereof, or which poses an immediate threat of material damage to any of the Project Assets;

"Encumbrances" means any encumbrance such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations and shall include without limitation any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project, physical encumbrances, claims for any amounts due on account of taxes, cess, electricity, water and other utility charges and encroachments on the Project Site / Project Facilities.

"Energy Accounts" shall mean the regional energy accounts/state energy accounts as specified in the Grid Code issued by the appropriate agency for each Month (as per their prescribed methodology), including the revisions and amendments thereof.

"Events of Default" shall mean the events as defined in Article 16 of this Agreement.

"BESCOM Event of Default" shall have the meaning set forth in Clause 16.2;

"Expiry Date" shall mean the date occurring twenty five (25) years from the Commercial Operation Date

"Financial Closure" shall mean the execution of all the Financing Agreements required for the Power Project and fulfillment of conditions precedents and waiver, if any, of any of the conditions precedent for the initial draw down of funds there under.

"Financing Agreement" shall mean the agreements pursuant to which the Developer 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 BESCOM.

"Force Majeure" or "Force Majeure Event" shall have the meaning ascribed to it in Clause 14.3.1;


General Manager (Ele),
PP, BESCOM, B'lore



ARTICLE 18: Governing Law and Dispute Resolution**18.1 Governing Law**

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 Bangalore.

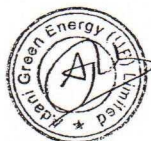
18.2 Amicable Settlement and Dispute Resolution

- 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 18.2.1(i) if the other Party does not furnish any counter claim or defense under Article 18.2.1(ii) or thirty (30) days from the date of furnishing counter claims or defense 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 18.2.1 (iii), the Dispute shall be referred for dispute resolution in accordance with Article 18.3.

18.3 Dispute Resolution**18.3.1 Dispute Resolution by KERC**

- a. If any dispute is not settled amicably under Article 18.2, the same shall be referred by any of the Parties to KERC for dispute resolution in accordance with the provisions of the Electricity Act 2003.


General Manager (C&D)
PP, BESCOM, B'lore -



"Change in Law" shall have the meaning ascribed thereto in Article 15 of this Agreement.

"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.

"Central Empowered Committee" Shall mean the committee formed as per the provisions of the National Solar Mission for selection of solar power developers.

"COD" or "Commercial Operation Date" Shall mean the actual commissioning date of respective units of the Power Project where upon the Developer starts injecting power from the Power Project to the Delivery Point.

"Company" means the Company acting as the Developer under this Agreement;

"Competent Court of Law" shall mean any court or tribunal or any similar judicial or quasi-judicial body in India that has jurisdiction to adjudicate upon issues relating to this Agreement

"Conditions Precedent" shall have the meaning set forth in Clause 4.2.

"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 Developer Preliminary Default Notice or BESCOM Preliminary Default Notice as provided in Article 16 of this Agreement, for consultation between the Parties to mitigate the consequence of the relevant event having regard to all the circumstances.

"Consortium" shall have the meaning set forth in Recital (B);

"Consortium Member" means a company specified in Recital (B) as a member of the Consortium;

"Construction Works" means all works and things necessary to complete the Project Facilities in accordance with this Agreement;

"Contracted Capacity" shall mean 20 MW contracted with BESCOM for supply by the Developer to BESCOM at the Delivery Point from the Solar Power Project

"Contract Year" shall mean the period beginning from the Effective Date and ending on the immediately succeeding March 31 and thereafter each period of 12 months beginning


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ARTICLE 19: Assignment and Charges

19.1 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, BESCOM shall permit assignment of any of Developers rights and obligations under this Agreement in favor of the lenders to the Developer, if required under the Financing Agreements". 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.

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20.12 Notices

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall:


- a) in the case of the Developer, be given by facsimile or e-mail and by letter delivered by hand to the address given and marked for attention of the person set out below or to such other person as the Developer may from time to time designate by notice to BESCOM; provided that notices or other communications to be given to an address outside Bengaluru may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by facsimile or e-mail to the number as the Developer may from time to time designate by notice to BESCOM;
- b) in the case of BESCOM, be given by facsimile or e-mail and by letter delivered by hand and be addressed to the Managing Director with a copy delivered to BESCOM Representative i.e., General Manager, Power Purchase, BESCOM Corporate Office, K.R.Circle Bengaluru or such other person as BESCOM may from time to time designate by notice to the Developer; provided that if the Developer does not have an office in Bengaluru it may send such notice by facsimile or e-mail and by registered acknowledgement due, air mail or by courier; and
- c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered and in all other cases, it shall be deemed to have been delivered on the actual date and time of delivery, provided that in the case of facsimile or e-mail, it shall be deemed to have been delivered on the working day following the date of its delivery.

20.13 Language

All notices required to be given by one Party to the other Party and all other communications, Documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

20.14 Counterparts

20.14.1 This Agreement may be executed in two counterparts, each of which, when executed and delivered, shall constitute an original of this Agreement


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- c) waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and
- d) consents generally in respect of the enforcement of any judgment or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgment that may be made or given in connection therewith).

20.4 Waiver

20.4.1 Waiver, including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:

- a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;
- b) shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and
- c) shall not affect the validity or enforceability of this Agreement in any manner.

20.4.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation thereunder nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.


20.5 Exclusion of implied warranties etc.

This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties.

20.6 Survival

20.6.1 Termination shall;

- a) not relieve the Developer or BESCOM, as the case may be, of any obligations hereunder which expressly or by implication survive Termination hereof; and
- b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.


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