

**ASSAM POWER DISTRIBUTION COMPANY LIMITED**

**DRAFT PPA**

**FOR PROCUREMENT OF POWER ON LONG TERM BASIS THROUGH COMPETITIVE  
BIDDING PROCESS (FOLLOWED BY REVERSE E-AUCTION) FROM \_\_ MW GRID  
CONNECTED SOLAR PHOTOVOLTAIC POWER PROJECTS**

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This Power Purchase Agreement is made and entered into at Guwahati on this \_\_\_\_\_ day of 2018 between -----

Company having its registered office -----at -----

India (hereinafter referred to as "Power Producer", which expression shall, unless repugnant to the context or meaning thereof, include its successors and assignees) as party of first part.

AND

Assam Power Distribution Company Limited incorporated under the Companies Act 1956 (1 of 1956) having its Registered office at Bijulee Bhawan, Paltanbazaar, Guwahati – 781001, (hereinafter referred to individually, as "APDCL" or "Power Procurer", which expression shall, unless repugnant to the context or meaning thereof, include its successors and assignees) as party of the second part.

ASSAM POWER DISTRIBUTION COMPANY LIMITED incorporated under The Companies Act 1956 (1 of 1956) having its Registered office at **Bijulee Bhawan, Paltanbazaar, Guwahati 781001**, (hereinafter referred to individually, as "APDCL" or "Power Procurer", which expression shall, unless repugnant to the context or meaning thereof, include its successors and assignees) as party of the second part.

WHEREAS APDCL vide RfS No. \_\_\_\_\_ has floated tender for procurement of total 100 MW power from Solar Power Projects through Competitive Bidding (followed by reverse auction) and the Power Producer has been declared Successful Bidder pursuant to Letter of Award (LoA) dated ..... for development of Solar Power Project of .....MW capacity located at----- and sale of entire of electrical energy, so produced, for commercial purposes from such Power Plant to APDCL.

AND, WHEREAS the Power Producer has furnished Performance Bank Guarantee no..... dated ..... amounting to Rs. .... (calculated at Rs. 20 Lakh / MW) as per the RfS no. \_\_\_\_\_ dated -----

AND, WHEREAS the Power Producer desires to set-up/has set up Solar Power Plant of ..... MW capacity at Village ..... District .....

AND, WHEREAS the power producer has taken responsibility to set up requisite power injection system into AEGCL/APDCL network.

AND, WHEREAS the Parties hereby agree to execute this Power Purchase Agreement setting out the terms and conditions for the sale of power by Power Producer to APDCL.

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

## Article 1 : DEFINITIONS

### 1 For all purposes of this Agreement, the following words and expressions shall have the respective meanings set forth below:

**"Agreement"** shall mean this Power Purchase Agreement executed hereof, including the schedules hereto, amendments, modifications and supplements made in writing by the Parties from time to time.

**"AMR"** shall mean Automated Meter Reading.

**"Approvals"** means the permits, clearances, licenses and consents as are listed in Schedule 3 hereto and any other statutory approvals.

**"Billing Period"** means (subject to **Article 6.1** of the Agreement) the calendar month ending with the Metering Date. The first Billing Period shall commence from the ComAERCial Operation Date and end with the Metering Date corresponding to the month in which the ComAERCial Operation Date occurs.

**"Billing Date"** shall be the first Business Day after the Metering Date of each Billing Period.

**"Business Day"** shall mean a Day other than Sunday or a statutory holiday on which banks remain open for business in Vadodara.

**"Change in Law"** shall have the meaning ascribed thereto in Article 9 of this Agreement.

**"Commissioning"** with respect to the project / unit as certified by SLDC shall mean when all equipment's as per rated capacity has been installed and energy has flown into the grid.

**"ComAERCial Operation Date (COD)"** with respect to the Project / unit shall mean the date on which the project / unit is commissioned (certified by RLDC/SLDC/DISCOM) and available for comAERCial operation and such date as specified in a written notice given at least 10 days in advance by the power producer to APDCL.

**"CERC"** means Central Electricity Regulatory Commission.

**"Competent Court"** means the Supreme Court of India or any High Court, or any tribunal or any similar judicial or quasi-judicial body that has jurisdiction in relation to issues relating to the Project.

**"Contracted Capacity"** means the AC capacity of the project at the generating terminal(s) and contracted with APDCL for supply from the Solar Power Project which shall be equal to.....(*Insert MW*).

**"Contract Year"** shall mean, with respect to the initial Contract Year, the period beginning on the ComAERCial Operation Date and ending at 12.00 midnight on 31<sup>st</sup> March of that Fiscal Year i.e. a period of twelve months commencing on April 1 and ending on following 31<sup>st</sup> March. Each successive Contract Year shall coincide with the succeeding Fiscal Year, except that the final Contract Year shall end on the date of expiry of the Term or on Termination of this Agreement whichever is earlier.

**"CTU or Central Transmission Utility "** shall mean the Central Transmission Utility as defined in Sub-Section (10) of section (2) of the EA-2003.

**"Delivery Point / Interconnection Point"**; shall mean the point(s) of connection(s) at which energy is delivered into the Grid System i.e. AEGCL/APDCL substation, as applicable.

**"Delivered Energy"** means the kilowatt hours of Electricity actually fed and measured by the energy meters at the Delivery Point and as certified by RLDC/SLDC/DISCOM authorities.

In case, the project is installed and connected through CTU Network, then all transmission charges and losses upto delivery point shall be to the account of the Power Producer. No change in charges / losses of CTU shall be covered under Change in Law.

**"Due Date of Payment"** in respect of a Tariff Invoice means the date, which is 30 (thirty) days from the date of receipt of such invoices by the designated official of the APDCL. In case the said date is a holiday for Bank and/or APDCL, the next working day will be considered.

**"Electricity Laws"** shall mean the Electricity Act, 2003 and the relevant Rules, Notifications, and amendments issued there under and all other Laws in effect from time to time and applicable to the development, financing, construction, ownership, operation or maintenance or regulation of electric generating companies and Utilities in India, the rules, regulations and amendments issued by the AERC / CERC from time to time.

**"Emergency"** means a condition or situation of physical damage to CTU/STU electrical system including the Grid System, which threatens the safe and reliable operation of such system or which is likely to result in disruption of safe, adequate and continuous electric supply by CTU/STU or DISCOM Grid System or could endanger life or property.

**"Expiry Date"** shall mean the date occurring after twenty five (25) years from the date of COD (for the proposed projects) or after balance Useful life (Balance Useful Life of the Project shall not be less than one year) of the Solar PV plant (For already commissioned projects) .

**"Financing Documents"** mean the agreements and documents (including asset leasing arrangements) entered/to be entered into between the Power Producer and the Financing Parties relating to the financing of the Project.

**"Financial Closure"** shall mean the tie-up of Financing Arrangements for the project by developer and fulfillment of all the conditions precedent to the initial availability of funds there under and the receipt of commitments for such equity as required by the Power Producer in order to satisfy the requirements of the lenders, provided however that the Power Producer has immediate access to funds (subject to giving the required drawdown notices) regarded as adequate by the Power Producer and in any case which shall be within Seven (7) months from signing of PPA.

**"Financing Parties"** shall mean the parties financing the Project, pursuant to the Financing Documents.

**"Force Majeure Event"** shall have the meaning set forth in Article 8.

**"AERC"** means the Assam Electricity Regulatory Commission.

**"GoI" shall** mean the Government of the Republic of India and any agency, legislative body, department, political subdivision, authority or instrumentality thereof.

**"GoA" shall** mean the Government of the State of Assam and any agency, legislative body, department, political subdivision, authority or instrumentality thereof.

**"Government Instrumentality"** shall mean the GoI, the GoA and their ministries, inspectorate, departments, agencies, bodies, authorities, legislative bodies.

**"Grid System"** shall mean CTU / STU / Discom's power transmission system / distribution system through which Delivered Energy is evacuated and distributed.

**"Interconnection Facilities"** in respect of the Power Producer shall mean all the facilities installed by the Power Producer to enable APDCL to receive the Delivered Energy from the Project at the Delivery Point, including transformers, and associated equipment, relay and switching equipment, protective devices and safety equipment and transmission lines from the project to nearest sub-station.

**"kV" shall** mean kiloVolts.

**"kWh" shall** mean kiloWatt-hour.

**"Law"** shall mean any valid legislation, statute, rule, regulation, notification, directive or order, issued or promulgated by any Governmental Instrumentality.

**"Letter of Award (LoA)"** shall mean the letter dated ..... issued by APDCL to the Power Producer for award of the Contract.

**"Metering Date"** for a Billing Period, means the midnight of the last Day of the calendar month.

**"Metering Point"** The metering point will be at the receiving end of STU / CTU/APDCL substation. For the purpose of energy accounting the developer/generator would install ABT compliant meter at the metering point.

**"Monthly Charge"** shall have the meaning set forth in Article 5.

**"MRI"** shall mean Meter Reading Instrument.

**"MW"** means MegaWatts.

**“O & M Default”** shall mean any default on the part of the Power Producer for a continuous period of ninety (90) days to (i) operate and/or (ii) maintain (in accordance with Prudent Utility Practices), the Project at all times.

**“Performance Bank Guarantee”** shall mean the irrevocable unconditional bank guarantee submitted by the Power Producer as per the RfS no. -----

**“Project”** shall mean a Solar Photovoltaic Grid Interactive Power Station to be established by the Power Producer at -----, Dist:----- in the ----- State comprising of number of units at single/multiple locations, aggregating to capacity of \_\_\_MW and shall include land, buildings, plant, machinery, ancillary equipment, material, switch- gear, transformers, protection equipment and the like necessary to deliver the Electricity generated to APDCL at the Delivery Point.

**“Project Site”** means any and all parcels of real property, rights-of-way, easements and Access roads located at Village\_\_\_\_\_, District\_\_\_\_\_ in the State of Assam upon which the Project and its related infrastructure will be located

**“Prudent Utility Practices”** shall mean those practices, methods, techniques and standards, that are generally accepted for use in electric utility industries taking into account conditions in India, and commonly used in prudent electric utility engineering and operations to design, engineer, construct, test, operate and maintain equipment lawfully, safely, efficiently and economically as applicable to power stations of the size, service and type of the Project, and that generally conform to the manufacturers' operation and maintenance guidelines.

**“REA”** Regional Energy Account

**“RLDC”** shall mean relevant Regional Load Dispatch Center established under sub section (1) of Section 27 of Electricity Act 2003.

**“SBI 1 Year MCLR Rate”** means 1 year Marginal Cost of Funds Based Lending Rate (MCLR) fixed by State Bank of India (SBI) / any replacement thereof by SBI for the time being in effect applicable for 1 year period, as on 1st April of the respective financial year in accordance with regulations and guidelines of Reserve Bank of India. In absence of such rate, any other arrangement that substitutes such rate will be considered and the same will be binding on both the Parties.

**“Scheduled COD” or “Scheduled Commercial Operation Date”** means {insert date} not exceeding 15 (Fifteen) months from the date of execution of PPA for Projects with capacity up to 10 MW and not exceeding 18 (Eighteen) months from the date of execution of PPA for Projects with capacity above 10 MW.

**“SEA”** means the State Energy Account issued by State Load Dispatch Centre, if any.

**“SLDC”** means the State load dispatch center as notified by the State Government.

**“SNA”** shall mean State Nodal Agency.

**“STU or State Transmission Utility”** shall mean the State Transmission Utility notified by respective State Government under Sub-section (1) of Section 39 of the

Act. For the state of Assam STU is Assam Electricity Grid Corporation Limited (AEGCL).

**“Tariff”** shall have the meaning set forth in Article 5.

**“Tariff Invoices”** shall have the meaning set forth in Article 6.

**“Technical Limits”** means the limits and constraints described in Schedule 2, relating to the operations, maintenance and dispatch of the Project.

**“Term”** means the term of the Agreement as defined in Article 10.

**“Unit”** means one set of Solar Photovoltaic Grid Interactive power plant and auxiliary equipment and facilities forming part of the Project.

**“Voltage of Delivery”** means the voltage at which the Electricity generated by the Project is required to be delivered to the APDCL and shall be kV.

## **2 Interpretation:**

- a) Unless otherwise stated, all references made in this Agreement to "Articles" and "Schedules" shall refer, respectively, to Articles of, and Schedules to, this Agreement. The Schedules to this Agreement form part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement.
- b) In this Agreement, unless the context otherwise requires (i) the singular shall include plural and vice versa; (ii) words denoting persons shall include partnerships, firms, companies and Discom (iii) the words "include" and "including" are to be construed without limitation and (iv) a reference to any Party includes that Party's successors and permitted assigns.

## **Article 2 : OBLIGATIONS**

### **2.1. Obligations of the Power Producer:**

- (i) The Power Producer shall obtain all statutory approvals, clearances and permits necessary for the Project at his cost in addition to those Approvals as listed in Schedule 3.
- (ii) The Power Producer shall obtain financial closure within Seven (7) months from date of execution of this PPA.
- (iii) The Power Producer shall construct, operate and maintain the Project during the term of PPA at his cost and risk including the required Interconnection Facilities and in close co-ordination with CTU/STU/DISCOM's feasibility.
- (iv) The Power Producer shall sell all available capacity from identified Solar Photovoltaic Grid-Interactive Power Plants to the extent of contracted capacity on first priority basis to APDCL and not to sell to any third party.
- (v) The Power Producer shall seek approval of CTU/STU/DISCOM in respect of interconnection facilities.
- (vi) The Power Producer shall undertake at its own cost construction/upgradation of (a) the Interconnection Facilities, (b) the Transmission Lines and as per the specifications and requirements of CTU/STU/DISCOM, as notified to the Power Producer at Schedule 4.
- (vii) The Power Producer shall undertake at its own cost maintenance of the Interconnection Facilities, excluding the transmission line beyond the Sending Station as per the specifications and requirements of CTU /STU/ DISCOM, as notified to the Power Producer, in accordance with Prudent Utility Practices.
- (viii) The Power Producer shall operate and maintain the Project in accordance with Prudent Utility Practices.
- (ix) The Power Producer shall be responsible for all payments on account of any taxes, cesses, duties or levies imposed by the GoI/State Government or its competent statutory authority on the land, equipment, material or works of the Project or on the Electricity generated or consumed by the Project or by itself or on the income or assets owned by it.
- (x) For evacuation facility and maintenance of the transmission, the Power Producer shall enter into separate agreement with CTU/STU/DISCOM, if applicable.
- (xi) To apply for start up power required for the plant from APDCL (for intra-State only).
- (xii) Fulfilling all other obligations undertaken under this Agreement.
- (xiii) The Power Producer cannot inject power three months earlier to Scheduled Commercial Operation Date from Project / Unit without APDCL's consent.

## **2.2. Obligations of APDCL:**

- i. APDCL shall allow Power Producer to the extent possible to operate the Project as a base load-generating station.
- ii. APDCL shall operate the project, as per prevailing CERC/AERC Regulations and IEGC/State Grid Code.
- iii. APDCL shall off-take and purchase the electricity generated by power producer as per the terms and conditions of this Agreement.
- iv. APDCL will open the Letter of Credit as per terms and conditions of this agreement.

## **2.3. Liquidated damages for delay in Commissioning the Project/Solar Photovoltaic Grid Interactive Power Plant beyond Scheduled Commercial Operation Date**

- 1) The Projects shall be commissioned within a period of 18 (Eighteen) months from the date of execution of the PPA.
- 2) The Power Producer shall have to submit Commissioning Certificate as verified, inspected and certified by RLDC/ SLDC/APDCL. In case of failure to achieve this milestone, APDCL shall forfeit the Performance Bank Guarantee (PBG) in the following manner:
  - a) **Delay upto five (5) months from SCOD** – APDCL will encash the Performance Bank Guarantee on per day basis and proportionate to the Capacity not commissioned, with 100% encashment for 5 months delay beyond stipulated commissioning period of 15 months /18 months (depending upon the capacity of the project).
  - b) In case the commissioning of project is delayed beyond 5 months, the BIDDER shall, in addition to 100% encashment of Bank Guarantee, shall pay APDCL a sum of Rs.10,000/- per MW per day of delay for the delay in such remaining Capacity which is not Commissioned.
  - c) The maximum time period allowed for commissioning of the full Project Capacity with encashment of Performance Bank Guarantee and payment of Liquidated Damages shall be 10 months from the scheduled date of commissioning. The amount of Liquidated Damages worked out as above shall be recovered by APDCL from the payments due of the Project Developer on account of Sale of Solar Power to APDCL from the first bill. In case, the Commissioning of the Project is delayed beyond 10 months from the scheduled date of commissioning, the PPA capacity shall stand reduced / amended to the Project Capacity Commissioned and the PPA for the balance Capacity will stand terminated and shall be reduced from the selected Project Capacity. Also, if the project is not commissioned beyond 10 months from the scheduled date of commissioning, the PPA will be terminated.

## **2.4. Generation compensation due to evacuation issues at the time of COD:**

2.4.1 Upon the occurrence of an Emergency in CTU/ STU's/ DISCOM evacuation system for safe operation of its Grid, CTU/STU / DISCOM reserves the right to shut down the line and has no obligation to evacuate the power.

- 2.4.2 If plant is ready before Schedule Commercial Operation Date, but the offtake is constrained because of incomplete power evacuation infrastructure, no compensation shall be payable. [Applicable only in case of New plant yet to be commissioned or for capacity augmentation]
- 2.4.3 However, if the plant is ready but necessary evacuation is not ready due to reasons attributable to Procurer, the generation loss shall be calculated considering the normative CUF of 19%. Corresponding to this generation loss, considering the excess generation by the generator in the succeeding 3 (three) Contract Years, shall be procured by APDCL at the PPA tariff so as to offset this loss. [Applicable only in case of New plant yet to be commissioned]

## **Article 3 : SYNCHRONISATION, COMMISSIONING AND COMAERCIAL OPERATION**

### **3.1. Synchronization, Commissioning and Commercial Operation**

- 3.1.1 The Power Producer shall give at least Thirty (30) days written notice to the RLDC/SLDC/SNA and/or APDCL, of the date on which it intends to synchronize the Power Project to the Grid System.
- 3.1.2 Subject to Article 4.1.1, the Power Project may be synchronized by the Power Producer to the Grid System when it meets all the connection conditions prescribed in the Grid Code and otherwise meets all other Indian legal requirements for synchronization to the Grid System.
- 3.1.3 The synchronization equipment and all necessary arrangements/ equipment including Remote Terminal Unit (RTU) for scheduling of power generated from the Project and transmission of data to the concerned authority as per applicable regulation shall be installed by the Power Producer at its generation facility of the Power Project at its own cost. The Power Producer shall synchronize its system with the Grid System only after the approval of CTU/STU and RLDC/SLDC or DISCOM.
- 3.1.4 The Power Producer shall immediately after each synchronization/ tripping of generator, inform the sub-station of the Grid System to which the Power Project is electrically connected in accordance with applicable Grid Code.
- 3.1.5 The Projects shall be commissioned within a period of 15 (Fifteen) months from the date of execution of the PPA. However, Projects with a capacity of 10 MW and above shall be commissioned within a period of 18 (Eighteen) months from the date of execution of the PPA.
- 3.1.6 Part commissioning shall be accepted for the total 50% awarded capacity for projects having capacity more than 10 MW.
- 3.1.7 The early commissioning of solar power Generator is permitted for full commissioning as well as part commissioning. The projects commissioned during a month shall be considered for payment of energy @ 50% of the PPA tariff as infirm power till Commercial Operation Date (COD). The COD shall be considered 30 days from the actual date of commissioning of the first part capacity. The tenure of PPA shall commence from Commercial Operation Date of the first part commissioning of the project.

### **3.2. Performance Bank Guarantee:**

- 3.2.1 The Performance Bank Guarantee furnished by Power Producer to APDCL as prescribed in the RfS shall be for guaranteeing the commissioning / commercial operation of the project / unit up to the Contracted Capacity within SCOD.
- 3.2.2 If the Successful Bidder fails to achieve Financial Closure or fails to report such tie-up as prescribed in the RfS, APDCL shall encash the Performance Bank Guarantee (PBG) unless the delay caused due to a Force Majeure. An

extension for the attainment of the financial closure can however be considered by the Procurer, on the sole request of the Solar Power Generator, upon submission of a fresh Performance Bank Guarantee (PBG) with the same conditions, value and validity as the original Performance Bank Guarantee as also stated in the RfS.

- 3.2.3 If the Power Producer fails to commission the project / Unit on or before Scheduled Commercial Operation Date, APDCL shall have the right to forfeit the Performance Bank Guarantee without prejudice to the other rights of the Power Producer under this Agreement as per Article 3.3.
- 3.2.4 APDCL shall release the Performance Bank Guarantee upon successful commissioning of full contracted capacity after adjusting Liquidated Damages (if any) as per Article 3.3.

### **3.3. Dispatch and Scheduling:**

- 3.3.1 The Power Producer shall be required to Schedule its power as per the applicable regulations / requirements / guidelines of CERC / AERC and maintain compliance to the Grid Code requirements and directions, as specified by RLDC/SLDC from time to time. Any deviation from the Schedule will attract the provisions of applicable regulation / guidelines / directions and any financial implication on account of this shall be to the account of the Power Producer.
- 3.3.2 Power Producer shall be responsible for deviations made by it from the dispatch schedule and for any resultant liabilities on account of charges for deviation as per applicable regulations.

## **Article 4 RATES AND CHARGES**

- 4.1.** Monthly Energy Charges: The APDCL shall pay for the Scheduled /Delivered Energy as certified by RLDC/SLDC/ APDCL/Appropriate authority through REA/SEA/Joint Meter Reading (AMR/MRI), for the Term of this Agreement from the Commercial Operation Date, to the Power Producer every month. The Tariff payable by APDCL for energy purchased shall be as per Article below.
- 4.2** APDCL shall pay a fixed rate of Rs. .... (in words Rs . - - - ) per kWh as discovered under the Competitive Bidding (followed by e-reverse auction) and as agreed by the Parties upon commissioning of a Unit / Project (as certified by RLDC/SLDC/DISCOM) for delivered/scheduled energy during the period of PPA.
- 4.3** Provided that in case the commissioning of the project is delayed over Six (6) months from SCOD, the tariff discovered under the Competitive Bidding (followed by reverse auction) shall be reduced at the rate of 0.50 paise/kWh per day of delay for the delay in such remaining capacity which is not commissioned for entire term of PPA.
- 4.4 Start-up power/Auxiliary consumption:**  
APDCL shall supply electricity to the Power Producer at retail tariff rate for applicable category in force from time to time and Generator shall pay for this electricity (Fixed Demand (kVA) & variable power in kWh) at that rate. APDCL shall ensure that the power as required by the Power Producer under reasonable notice shall be available without delay.

**4.5. Capacity Utilisation Factor (CUF):**

**4.5.1 Criteria for generation:**

The power producer will declare the CUF of their project at the time of PPA and will be allowed to revise the same once within first year of COD. The declared CUF shall in no case be less than 19% over a year. They shall maintain generation so as to achieve CUF in the range of  $\pm 10$  % of their declared value during PPA duration of 25years from the date of COD (for the proposed projects) or after balance Useful life (Balance Useful Life of the Project shall not be less than one year) of the Solar power project (For already commissioned projects). The lower limit will, however, be relaxable by APDCL to the extent of grid non-availability for evacuation which is beyond the control of the developer.

**4.5.2 Shortfall in minimum generation:**

During PPA, if for any year, it is found that the developer has not been able to generate minimum energy corresponding to the lower limit of CUF declared by the developer, such shortfall in performance shall make developer liable to pay the compensation provided in the PPA as payable to APDCL This will, however be relaxable by APDCL to the extent of grid non-

availability for evacuation, which is beyond the control of the developer. The amount of such penalty will be 25% (twenty-five per cent) of the cost of this shortfall in energy terms, calculated at PPA tariff. This compensation shall be applied to the amount of shortfall in generation during the year. However, this compensation shall not be applicable in events of Force Majeure identified under PPA with trading company affecting supply of wind power by seller/power producer.

**4.5.3 Excess generation**

In case the availability is more than the maximum CUF specified, the Solar Power Generator will be free to sell it to any other entity provided first right of refusal will vest with the Procurer. In case the Procurer purchases the excess generation, excess generation over and above 10% of declared annual CUF, the same may be done at 75% of the PPA tariff.

**4.5.4 Repowering:**

The Solar Power Producers will be free to re-power their plants from time to time during the PPA duration. However, the Procurer will be obliged to buy power only within the range of CUF, specified in the PPA. Any excess generation will be dealt as specified in clause 4.5.3 above.

**4.6 Generation Compensation in offtake constraint due to transmission:**

During the operation of the plant, due to temporary transmission unavailability (during 8 am to 6 pm), if the power is not evacuated, for reasons not attributable to producer, then the generation loss shall be procured by APDCL at the PPA tariff so as to offset this loss in the succeeding 3 (three) Contract Years.

| Duration of Grid unavailability   | Provision for Generation Compensation   |
|---|---|
| Grid unavailability in a contract year as defined in the PPA: (only period from 8 AM to 5 PM to be counted) | <p>Generation Loss = [(Average Generation per hour during the contract year) × (number of hours of grid unavailability during the contract year)]</p> <p>Where, Average Generation per hour during the contract year (kWh) = Total generation in the contract year (kWh) ÷ Total hours in the contract year</p> <p>The excess generation by the Solar Power Developer equal to this generation loss shall be procured by the Procurer at the PPA tariff so as to offset this loss in the succeeding 3 (three) Contract Years.</p> |

**4.7 Generation compensation due to Backed Down:**

The solar power producer shall follow the forecasting and scheduling process as per CERC/AERC regulations as amended from time to time.

The Government of India, as per Clause 5.2(u) of the Indian Electricity Grid Code (IEGC), encourages a status of “must-run” to solar power projects.

Accordingly, no solar power plant, duly commissioned, should be directed to back down by a Discom/ Load Dispatch Centre (LDC). In case such eventuality of Backdown arises, except for the cases where the back down is on account of events like consideration of grid security/ an emergency in CTU / STU's / Discom's evacuation system for safe operation of its Grid or safety of any personnel or any other such condition, the Power Producer shall suitably back down their generation.

In case of backing down situation, the power producer will be eligible for Minimum Generation Compensation from Procurer/APDCL after receipt of Regional Energy Account /State Energy Account as under:

| <b>Duration of Back down</b>                    | <b>Minimum Generation Compensation</b>   |
|---|--|
| Hours of back down during monthly billing cycle | Minimum Generation Compensation =<br>50% of (Average Generation per hour during the month)x (number of back down hours during the month) x PPA tariff<br>Where, Average Generation per hour during the month(kWh) = Total generation in the month(kwh)÷Total hours in the month. |

## **Article 5 BILLING AND PAYMENT**

### **5.1. Billing Provision:**

The Billing will be on monthly basis. APDCL will be billed by the Power Producer based on Joint Meter reading/AMR/REA/SEA as certified by Assam SLDC/RLDC or APDCL authority as may be applicable following the end of each month for the energy supplied and payment will be due on the thirtieth day following the delivery of the billing invoice.

### **5.2. Payment:**

APDCL shall make payment of the amounts due in Indian Rupees within thirty (30) days from the date of receipt of the Tariff Invoice by the designated office of the APDCL.

### **5.3. Late Payment:**

For payment of Monthly bill by APDCL thirty (30) days beyond its due date, if paid after Due date of Payment, a late Payment charge shall be payable by APDCL to the Power Producer at the rate of 1.25% (percent) in excess of the SBI, 1 year Marginal Cost of Funds Based Lending Rate (MCLR) per annum / any replacement thereof by SBI.

### **5.4. Rebate:**

For payment of Monthly Bill by APDCL, if paid on or before Due Date of Payment, a Rebate shall be deducted by APDCL at the rate of 1.25% (percent) in excess of the SBI, 1 year Marginal Cost of Funds Based Lending Rate (MCLR) per annum / any replacement thereof by SBI on the bill amount.

### **5.5. Payment Security:**

#### **1) Letter of Credit:**

- a) APDCL shall establish and maintain irrevocable and unconditional revolving Letter of Credit in favour of, and for the sole benefit of, the Power Producer for the contracted capacity. All the cost incurred by APDCL for opening, maintenance and other cost related to establishment of Letter of Credit shall be borne by the Procurer.
- b) The Letter of Credit shall be established in favour of, and issued to, the Power Producer on the date hereof and made operational thirty (30) days prior to due date of first invoice and shall be maintained consistent herewith by APDCL and all times during the Term of the Agreement.
- c) Such Letter of Credit shall be in form and substance acceptable to both the Parties and shall be issued by any Scheduled Bank and be provided on the basis that:

- i. In the event a Tariff Invoice or any other amount due and undisputed amount payable by APDCL pursuant to the terms of this Agreement is not paid in full by APDCL as and when due, the Letter of Credit may be called by the Power Producer for payment of undisputed amount.
  - ii. The amount of the Letter of Credit shall be equal to one month's projected payments during first contract year and thereafter during each contract year, the amount of Letter of Credit shall be equal to one month's average billing of previous contract year.
  - iii. The APDCL shall replenish the Letter of Credit to bring it to the original amount within 30 days in case of any valid drawdown.
- d) The Letter of Credit shall be renewed and/or replaced by the APDCL not less than 30 days prior to its expiration.
- e) Payment under the Letter of Credit: The drawl under the Letter of Credit in respect of a Tariff Invoice (excluding supplementary bills) shall require:
- i. a copy of the metering statement jointly signed by the official representatives of both the Parties, supporting the payments attributable to the Delivered Energy in respect of such Tariff Invoice.
  - ii. a certificate from the Power Producer stating that the amount payable by APDCL in respect of such Tariff Invoice has not been paid and disputed by APDCL till the Due Date of Payment of the Tariff Invoice.

#### **5.6. Disputes:**

In the event of a dispute as to the amount of any Tariff Invoice, APDCL shall notify the Power Producer of the amount in dispute and APDCL shall pay the Power Producer 100% of the undisputed amount within the due date provided either party shall have the right to approach the AERC to effect a higher or lesser payment on the disputed amount. The Parties shall discuss within a week from the date on which APDCL notifies the Power Producer of the amount in dispute and try and settle the dispute amicably. Where any dispute arising out of or in connection with this agreement is not resolved mutually then such dispute shall be submitted to adjudication by the AERC under Section 79 or 86 of Electricity Act 2003 and the AERC may refer the matter to Arbitration as provided in the said provision read with Section 158 of Electricity Act 2003. For dispute beyond the power conferred upon the AERC, such dispute shall be subject to jurisdiction of High Court at Guwahati. If the dispute is not settled during such discussion then the payment made by APDCL shall be considered as a payment under protest. Upon resolution of the dispute, in case the Power Producer is subsequently found to have overcharged, then it shall return the overcharged amount with an interest of SBI 1 year Marginal Cost of Funds Based Lending Rate (MCLR) per annum plus 1.25% for the period it retained the additional amount. APDCL / Power Producer shall not have the right to challenge any Tariff Invoice, or to bring any court or administrative action of any kind

questioning/modifying a Tariff Invoice after a period of three years from the date of the Tariff Invoice is due and payable.

## **Article 6 METERING AND COMMUNICATION**

### **6.1. Reading and Correction of Meters**

- i. The metering point will be at the receiving end of CTU/STU/DISCOM substation. For the purpose of energy accounting the power producer shall install ABT compliant meter at the metering point.
- ii. For the purpose of energy accounting, the ABT compliant meter shall be installed by Power Producer at the metering point. Further, Power Producer shall have to provide ABT Compliant Meters. Interface metering shall conform to the Central Electricity Authority (Installation and Operation of Meters) Regulations 2014 and amendment thereto. CTU/ STU /DISCOM shall stipulate specifications in this regard.
- iii. The SPD shall bear all costs pertaining to installation, testing, calibration, maintenance, renewal and repair of meters at SPD's side of Delivery Point.
- iv. In the event that the Main Metering System is not in service as a result of maintenance, repairs or testing, then the Backup Metering System/Check Meter shall be used during the period the Main Metering System is not in service and the provisions above shall apply to the reading of the Backup Metering System.

### **6.2. Sealing and Maintenance of Meters.**

- i. The Main Metering System and the Backup Metering System shall be sealed in the presence of representatives of Power Producer, STU/CTU and DISCOM.
- ii. When the Main Metering System and / or Backup Metering System/Check Metering System and / or any component thereof is found to be outside the acceptable limits of accuracy or otherwise not functioning properly, it shall be repaired, re-calibrated or replaced by the Power Producer and / or CTU/STU/DISCOM at Power Producer's cost, as soon as possible.
- iii. Any meter seal(s) shall be broken only by CTU / STU/DISCOM's representative in the presence of Power Producer's representative whenever the Main Metering System or the Backup Metering System is to be inspected, tested, adjusted, repaired or replaced.
- iv. All the Main and Check Meters shall be calibrated at least once in a period of one year.
- v. In case, both the Main Meter and Check Meter are found to be beyond permissible limit of error, both the meters shall be calibrated immediately and the correction applicable to main meter shall be applied to the energy registered by the Main Meter at the correct energy for the purpose of energy accounting / billing for the actual period during which inaccurate measurements were made, if such period can be determined or, if not readily determinable, shall be the shorter of:
  - a) the period since immediately preceding test of the relevant Main meter, or

- b) one hundred and eighty (180) days immediately preceding the test at which the relevant Main Meter was determined to be defective or inaccurate.

### **6.3. Records**

Each Party shall keep complete and accurate records and all other data required by each of them for the purposes of proper administration of this Agreement and the operation of the Power Plant. Among such other records and data, the Power Producer shall maintain an accurate and up-to-date operating log at the Power Plant with records of:-

- a) Fifteen (15) minutes logs of real and reactive power generation, frequency, transformer tap position, bus voltage(s), Main Meter and Back up Meter Readings and any other data mutually agreed;
- b) any unusual conditions found during operation / inspections;
- c) chart and printout of event loggers, if any, for system disturbances/ outages;
- d) All the records will be preserved for a period of 36 months.

## Article 7 FORCE MAJEURE

### 7.1. Force Majeure Events:

- a) Neither Party shall be responsible or liable for or deemed in breach hereof because of any delay or failure in the performance of its obligations hereunder (except for obligations to pay money due prior to occurrence of Force Majeure events under this Agreement) or failure to meet milestone dates due to any event or circumstance (a "Force Majeure Event") beyond the reasonable control of the Party experiencing such delay or failure, including the occurrence of any of the following:
- i. acts of God;
  - ii. typhoons, floods, lightning, cyclone, hurricane, drought, famine, epidemic, plague or other natural calamities;
  - iii. acts of war (whether declared or undeclared), invasion or civil unrest;
  - iv. any requirement, action or omission to act pursuant to any judgment or order of any court or judicial authority in India (provided such requirement, action or omission to act is not due to the breach by the Power Producer or APDCL of any Law or any of their respective obligations under this Agreement);
  - v. inability despite complying with all legal requirements to obtain, renew or maintain required licenses or Legal Approvals;
  - vi. earthquakes, explosions, accidents, landslides; fire;
  - vii. expropriation and/or compulsory acquisition of the Project in whole or in part by Government Instrumentality;
  - viii. chemical or radioactive contamination or ionizing radiation; or
  - ix. damage to or breakdown of transmission facilities of CTU/STU/DISCOM;
  - x. Exceptionally adverse weather condition which are in excess of the statistical measure of the last hundred (100) years.
- b) **Force Majeure Exclusions:** Force Majeure shall not include the following conditions, except to the extent that they are consequences of an event of Force Majeure:
- i. Unavailability, Late Delivery or Change in cost of plants and machineries, equipment, materials, spares parts or consumables for the project;
  - ii. Delay in performance of any contractor / sub contractor or their agents;
  - iii. Non performance resulting from normal wear and tear experience in power generation materials and equipments;
  - iv. Strike or Labour Disturbances at the facilities of affected parties;

- v. In efficiency of finances or funds or the agreement becoming onerous to perform, and
  - vi. Non performance caused by, or concerned with, the affected party's
    - Negligent and intentional acts, errors or omissions;
    - Failure to comply with Indian law or Indian Directive; or
    - Breach of, or default under this agreement or any Project agreement or Government agreement.
- c) The affected Party shall give notice to other party of any event of Force Majeure as soon as reasonably practicable, but not later than 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 any event of Force Majeure results in a breakdown of communication rendering it not reasonable to give notice within the applicable time limit specified herein, then the party claiming Force Majeure shall give notice as soon as reasonably practicable after reinstatement of communication, but not later than one day after such reinstatement. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed, and 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 situation.
- d) The affected Party shall give notice to the other Party of (1) cessation of relevant event of Force Majeure; and (2) 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.
- e) To the extent not prevented by a Force Majeure event, 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 event of Force Majeure as soon as practicable.

## **7.2. Available Relief for a Force Majeure Event:**

- 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. However, adjustment in tariff shall not be allowed on account of Force Majeure event.
- b) 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.
- c) Provided that no payments shall be made by either Party affected by a Force Majeure Event for the period of such event on account of its inability to perform its obligations due to such Force Majeure Events.

## **Article 8 CHANGE IN LAW**

### **8.1. Definitions In this Article 9, the following terms shall have the following meanings:**

"Change in Law" shall refer to the occurrence of any of the following events after the last date of the bid submission, including (i) the enactment of any new law; or (ii) an amendment, modification or repeal of an existing law; or (iii) the requirement to obtain a new consent, permit or license; or (iv) any modification to the prevailing conditions prescribed for obtaining an consent, permit or license, not owing to any default of the Solar Power Generator; or (v) any change in the rates of any Taxes which have a direct effect on the Project. However, Change in Law shall not include any change in taxes on corporate income or any change in any withholding tax on income or dividends.

### **8.2. Relief for Change in Law**

- 8.2.1 In the event a Change in Law results in any adverse financial loss/ gain to the Power Producer then, in order to ensure that the Power Producer is placed in the same financial position as it would have been had it not been for the occurrence of the Change in Law, the Power Producer/ Procurer shall be entitled to compensation by the other party, as the case may be, subject to the condition that the quantum and mechanism of compensation payment shall be determined and shall be effective from such date as may be decided by the AERC.
- 8.2.2 If a Change in Law results in the Power Producer's costs directly attributable to the Project being decreased or increased by one percent (1%), of the estimated revenue from the Electricity for the Contract Year for which such adjustment becomes applicable or more, during Operation Period, the Tariff Payment to the Power Producer shall be appropriately increased or decreased with due approval of AERC.
- 8.2.3 The Power Procurer / APDCL or the Power Producer, as the case may be, shall provide the other Party with a certificate stating that the adjustment in the Tariff Payment is directly as a result of the Change in Law and shall provide supporting documents to substantiate the same and such certificate shall correctly reflect the increase or decrease in costs.
- 8.2.4 The revised tariff shall be effective from the date of such Change in Law as approved by AERC, the Parties hereto have caused this Agreement to be executed by their fully authorised officers, and copies delivered to each Party, as of the day and year first above stated.

## **Article 9      TERM, TERMINATION AND DEFAULT**

### **9.1. Term of the Agreement:**

This Agreement shall become effective upon the execution and delivery thereof by the Parties hereto and unless terminated pursuant to other provisions of the Agreement, shall continue to be in force for such time until the completion of a period of 25 years (Twenty Five years) from the Commercial Operation Date of the Project or balance useful life (Balance Useful Life of the Project shall not be less than one year) of project. 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.

### **9.2. Survival:**

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 8 (Force Majeure), Article 10 (Events of Default and Termination), Article 11 (Dispute Resolution), Article 12 (Indemnity), Article 13 (Miscellaneous Provisions), and other Articles and Schedules of this Agreement which expressly or by their nature survive the Term or termination of this Agreement shall continue and survive any expiry or termination of this Agreement

### **9.3. Events of Default and the consequences thereof:**

**9.3.1 Power Producer's Default:** The occurrence of any of the following events at any time during the Term of this Agreement shall constitute an Event of Default by Power Producer:

- a) Failure to commission the project by scheduled commercial operation date or fails to supply power in terms of the PPA, or assigns or novates any of its rights or obligations contrary to the terms of the PPA.
- b) O & M Default on part of Power Producer.
- c) Failure or refusal by Power Producer to perform any of its material obligations under this Agreement including but not limited to financial closure.
- d) Power producer fails to make any payment required to be made to Power Procurer under this agreement within three (3) months after the due date of a valid invoice raised by APDCL on the Power Producer.

- e) If the Power Producer (i) assigns or purports to assign its assets or rights in violation of this agreement; or (ii) transfers or novates any of its rights and / or obligations under this agreement, in violation of this agreement.
- f) If the Power producer becomes voluntarily or involuntarily the subject of proceeding under any bankruptcy or insolvency laws or goes into liquidation or dissolution or has a receiver appointed over it or liquidator is appointed, pursuant to Law, except where such dissolution of the Power producer is for the purpose of a merger, consolidated or reorganization and where the resulting entity has the financial standing to perform its obligations under this Agreement and creditworthiness similar to the Power Producer and expressly assumes all obligations under this agreement and is in a position to perform them; or
- g) The Power Producer repudiates this agreement.
- h) Change in controlling shareholding before the specified time frame as mentioned in the RfS.
- i) Occurrence of any other event which is specified in this Agreement to be a material breach / default of the Power Producer.

9.3.2 Upon being in default, the Power Producer shall be liable to pay APDCL, damages, as detailed in the PPA, The Procurer shall have the right to recover the said damages by way of forfeiture of bank guarantee without prejudice to resorting to any other legal course or remedy.

9.3.3 In addition to the levy of damages as aforesaid, in the event of a default by the Power Producer, the lenders shall be entitled to exercise their rights of substitution, in accordance with the substitution agreement provided in the PPA and in concurrence with the Procurers. However, in the event the lenders are unable to substitute the defaulting Solar Power Generator within the stipulated period, the Procurer may terminate the PPA and acquire the Project assets for an amount equivalent to 90% of the debt due, failing which, the lenders may exercise their mortgage rights and liquidate the Project assets.

9.3.4 **APDCL's Default:** The occurrence of any of the following at any time during the Term of this Agreement shall constitute an Event of Default by APDCL:

- a) Default by APDCL in performing its obligation under this agreement.
- b) Default in payment of bills beyond 90 days.
- c) APDCL repudiates this agreement.
- d) If APDCL becomes voluntarily or involuntarily the subject of proceeding under any bankruptcy or insolvency laws or goes into liquidation or dissolution or has a receiver appointed over it or liquidator is appointed, pursuant to Law, except where such dissolution of APDCL 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 creditworthiness similar to APDCL and expressly assumes all

obligations under this agreement and is in a position to perform them.

#### **9.4. Termination:**

##### **9.4.1 Termination for Power Producer's Default:**

Upon the occurrence of an event of default as set out in sub-clause 10.3.1 above, APDCL may deliver a Default Notice to the Power Producer in writing which shall specify in reasonable detail the Event of Default giving rise to the default notice, and calling upon the Power Producer to remedy the same.

At the expiry of 30 (thirty) days from the delivery of this default notice and unless the Parties have agreed otherwise, or the Event of Default giving rise to the default notice has been remedied, APDCL may deliver a Termination Notice to the Power Producer. APDCL may terminate this Agreement by delivering such a Termination Notice to the Power Producer and intimate the same to the AERC. Upon delivery of the Termination Notice this Agreement shall stand terminated and APDCL shall stand discharged of all its obligations. The Power Producer shall have liability to make payment within 30 days from the date of termination notice towards compensation to APDCL equivalent to three years billing based on normative Capacity Utilization Factor of 19%.

Where a Default Notice has been issued with respect to an Event of Default, which requires the co-operation of both APDCL and the Power Producer to remedy, APDCL shall render all reasonable co-operation to enable the Event of Default to be remedied without any legal obligations.

##### **9.4.2 Termination for APDCL's Default:**

Upon the occurrence of an Event of Default as set out in sub-clause 10.3.4 above, the Power Producer may deliver a Default Notice to APDCL in writing which shall specify in reasonable detail the Event of Default giving rise to the Default Notice, and calling upon APDCL to remedy the same.

At the expiry of 30 (thirty) days from the delivery of the Default Notice and unless the Parties have agreed otherwise, or the Event of Default giving rise to the Default Notice has been remedied, the Power Producer may serve a "Suspension Notice" to APDCL for a duration not exceeding one year ("Suspension Period").

During the "Suspension Period" mentioned herein above, APDCL shall allow the Power Producer to sell power from the project, to any third party, in the open market either by finding the said consumers on its own or through any Central / State power trading utilities. In case of wheeling of power to such third parties, the transmission charges, transmission losses, wheeling charges and losses SLDC charges and cross subsidy surcharge etc. shall be applicable as per AERC's regulation in force from time to time and paid directly to respective agencies by third party. No banking facility shall be allowed to Power Producer and third parties. Till expiry of the Suspension Period, APDCL will be entitled to cure its

default and buy power from the Power Producer. In the event APDCL fails to cure the default, the Power Producer may terminate this Agreement by delivering a Termination Notice to APDCL / its successor entity and in such an event APDCL shall have liability to make payment within 30 days from the date of termination notice toward compensation to Power Producer equivalent to 6 (six) months, or balance PPA period whichever is less, of charges for its contracted capacity on normative CUF of 19%, with the Project assets being retained by the Solar Power Generator.

## **Article 10    DISPUTE RESOLUTION**

- 10.1.** All disputes or differences between the Parties arising out of or in connection with this Agreement shall be first tried to be settled through mutual negotiation.
- 10.2.** The Parties hereto agree to attempt to resolve all disputes arising hereunder promptly, equitably and in good faith.
- 10.3.** Each Party shall designate in writing and communicate to the other Party its own representative who shall be authorized to resolve any dispute arising under this Agreement in an equitable manner and, unless otherwise expressly provided herein, to exercise the authority of the Parties hereto to make decisions by mutual agreement.
- 10.4.** In the event that such differences or disputes between the Parties are not settled through mutual negotiations within sixty (60) days, after such dispute arises, then it shall be adjudicated by AERC in accordance with Law.

## **Article 11 INDEMNITY**

**11.1. Power Producer's Indemnity:** The Power Producer agrees to defend, indemnify and hold harmless APDCL, its officers, directors, agents, employees and affiliates (and their respective officers, directors, agents and employees) from and against any and all claims, liabilities, actions, demands, judgments, losses, costs, expenses, suits, actions and damages arising by reason of bodily injury, death or damage to property sustained by third parties that are caused by an act of negligence or the willful misconduct of the Power Producer, or by an officer, director, sub-contractor, agent or employee of the Power Producer except to the extent of such injury, death or damage as is attributable to the willful misconduct or negligence of, or breach of this Agreement by, APDCL, or by an officer, director, sub-contractor, agent or employee of the APDCL.

**11.2. APDCL's Indemnity:** APDCL agrees to defend, indemnify and hold harmless the Power Producer, its officers, directors, agents, employees and affiliates (and their respective officers, directors, agents and employees) from and against any and all claims, liabilities, actions, demands, judgments, losses, costs, expenses, suits, actions and damages arising by reason of bodily injury, death or damage to property sustained by third parties that are caused by an act of negligence or the willful misconduct of APDCL, or by an officer, director, sub-contractor, agent or employee of APDCL except to the extent of such injury, death or damage as is attributable to the willful misconduct or negligence of, or breach of this Agreement by, the Power Producer, or by an officer, director, sub-contractor, agent or employee of the Power Producer.

**Article 12 MISCELLANEOUS PROVISIONS**

- 12.1. Governing Law:** This Agreement shall be interpreted, construed and governed by the Laws of India.
- 12.2. Insurance:** The Power Producer shall obtain and maintain necessary policies of insurance during the Term of this Agreement consistent with Prudent Utility Practice.
- 12.3. Books and Records:** The Power Producer shall maintain books of account relating to the Project in accordance with generally accepted Indian accounting principles.
- 12.4. Waivers:** Any failure on the part of a Party to exercise, and any delay in exercising, exceeding three years, any right hereunder shall operate as a waiver thereof. No waiver by a Party of any right hereunder with respect to any matter or default arising in connection with this Agreement shall be considered a waiver with respect to any subsequent matter or default.
- 12.5. Limitation Remedies and Damages:** Neither Party shall be liable to the other for any consequential, indirect or special damages to persons or property whether arising in tort, contract or otherwise, by reason of this Agreement or any services performed or undertaken to be performed hereunder.
- 12.6. Notices:** Any notice, communication, demand, or request required or authorized by this Agreement shall be in writing and shall be deemed properly given upon date of receipt if delivered by hand or sent by courier, if mailed by registered or certified mail at the time of posting, if sent by fax when dispatched (provided if the sender's transmission report shows the entire fax to have been received by the recipient and only if the transmission was received in legible form), to :

In case of the Power Producer:

\_\_\_\_\_

Name: \_\_\_\_\_

Designation: \_\_\_\_\_ Address : \_\_\_\_\_

Ph. Nos.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

In case of Assam Power Distribution Company Limited:

Designation: Chief General Manager (Commercial)

Address : 5<sup>th</sup> Floor, Bijulee Bhawan, Paltanbazaar, Guwahati – 400 051.

Ph. Nos.: \_\_\_\_\_

**12.7. Severability:**

Any provision of this Agreement, which is prohibited or unenforceable in any jurisdiction, shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and without affecting the validity, enforceability or legality of such provision in any other jurisdiction.

**12.8. Amendments:**

This Agreement shall not be amended, changed, altered, or modified except by a written instrument duly executed by an authorized representative of both Parties. However, APDCL

may consider any amendment or change that the Lenders may require to be made to this Agreement.

#### **12.9. Assignment:**

Neither Party shall assign this Agreement or any portion hereof without the prior written consent of the other Party, provided further that any assignee shall expressly assume the assignor's obligations thereafter arising under this Agreement pursuant to documentation satisfactory to such other Party. However, such assignment shall be permissible only for entire contracted capacity.

Provided however, no approval is required from APDCL for the assignment by the Power Producer of its rights herein to the Financing Parties and their successors and assigns in connection with any financing or refinancing related to the construction, operation and maintenance of the Project.

In furtherance of the foregoing, APDCL acknowledges that the Financing Documents may provide that upon an event of default by the Power Producer under the Financing Documents, the Financing Parties may cause the Power Producer to assign to a third party the interests, rights and obligations of the Power Producer thereafter arising under this Agreement. APDCL further acknowledges that the Financing Parties, may, in addition to the exercise of their rights as set forth in this Section, cause the Power Producer to sell or lease the Project and cause any new lessee or purchaser of the Project to assume all of the interests, rights and obligations of the Power Producer thereafter arising under this Agreement.

#### **12.10. Entire Agreement, Appendices:**

This Agreement constitutes the entire agreement between APDCL and the Power Producer, concerning the subject matter hereof. All previous documents, undertakings, and agreements, whether oral, written, or otherwise, between the Parties concerning the subject matter hereof are hereby cancelled and shall be of no further force or effect and shall not affect or modify any of the terms or obligations set forth in this Agreement, except as the same may be made part of this Agreement in accordance with its terms, including the terms of any of the appendices, attachments or exhibits. The appendices, attachments and exhibits are hereby made an integral part of this Agreement and shall be fully binding upon the Parties.

In the event of any inconsistency between the text of the Articles of this Agreement and the appendices, attachments or exhibits hereto or in the event of any inconsistency between the provisions and particulars of one appendix, attachment or exhibit and those of any other appendix, attachment or exhibit APDCL and the Power Producer shall consult to resolve the inconsistency.

#### **12.11. Further Acts and Assurances:**

Each of the Parties after convincing itself agrees to execute and deliver all such further agreements, documents and instruments, and to do and perform all such further acts and things, as shall be necessary or convenient to carry out the provisions of this Agreement and to consummate the transactions contemplated hereby.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their fully authorized officers, and copies delivered to each Party, as of the day and year first above stated.

|  |  |
|--|--|
| <p>FOR AND ON BEHALF OF POWER PRODUCER M/S.</p> <p><b>Authorised Signatory</b></p> <p><b>WITNESSES</b></p> <p>1. _____<br/>(                    )</p> <p>2. _____<br/>(                    )</p> | <p>FOR AND ON BEHALF OF ASSAM STATE ELECTRICITY DISTRIBUTION COMPANY LIMITED</p> <p><b>APDCL</b></p> <p><b>WITNESSES</b></p> <p>1. _____<br/>(                    )</p> <p>2. _____<br/>(                    )</p> |
|--|--|

## SCHEDULE 1: PARAMETERS AND TECHNICAL LIMITS OF SUPPLY

### 1. Electrical characteristics

Three phase alternating current

Nominal declared frequency : 50.0 Hz

Final Voltage at Delivery Point: kV

Short circuit rating: As a part of the detailed design process, the Power Producer shall calculate the short circuit rating (minimum and maximum), and supply this information to the APDCL.

**Note:** The tolerances & Electrical characteristics variations and Basic Insulation level will be as per relevant grid code and CEA standards.

### 2. Quality of Service

The Power Producer shall be responsible for the delivery of energy conforming

Performance Standards for Transmission and Bulk Supply as approved by AERC.

The maximum current and voltage waveform distortion shall be in accordance with the limits prescribed under Central Electricity Authority (Grid Standards) Regulations 2010, as amended from time to time.

### 3. Power Factor:

The Generator shall maintain the Power Factor as per the prevailing AERC/CERC regulations and as may be stipulated / specified by CTU/STU/DISCOM from time to time. The Power Producer shall provide suitable protection devices, so that the Electric Generators could be isolated automatically when grid supply fails.

Connectivity criteria like short circuit level (for switchgear), neutral Grounding, fault clearance time, current unbalance (including negative and zero sequence currents), limit of harmonics etc. shall be as per Grid Code.

## **SCHEDULE 2: TECHNICAL LIMITS**

1. The nominal steady state electrical characteristics of the system are as follows:
  - a) three phase alternating current at 50 Hertz plus or minus 0.5 Hertz
  - b) nominal voltage of\_\_ KV with +10% to - 12.5% variation.
2. The Project shall be designed and capable of being synchronized and operated within a frequency range as per relevant Grid Code and voltage of\_\_ KV
3. Operation of the Project outside the nominal voltage and frequency specified above will result in reduction of power output consistent with generator capability curves.

### **SCHEDULE 3: APPROVALS**

1. Consent from the C T U / STU /DISCOM for the evacuation scheme for evacuation of the power generated by MW Solar Photovoltaic Grid Interactive the \_\_\_\_\_ Power Projects.
2. Approval of the Electrical Inspectorate, Government of Assam for commissioning of the transmission line and the solar project installed at the Project Site.
3. Certificate of Commissioning of the Solar Photovoltaic Grid Interactive Power Project issued by CTU/STU/APDCL/SLDC.
4. SNA/APDCL registration certificate.
5. Permission from all other statutory and non-statutory bodies required for the Project.
6. Clearance from Department of Forest, Ecology and Environment, if required

## **Appendix-A-1**

- i) The Power Producer shall give to the concerned RLDC/SLDC, State Nodal Agency (SNA) and APDCL at least Thirty (30) days advance written notice, of the date on which it intends to synchronize the Power Project to the Grid System. The Power Producer shall be solely responsible for any delay or non-receipt of the notice by the concerned agencies, which may in turn affect the Commissioning Schedule of the Project.
- ii) A Solar PV Project will be considered as commissioned if all equipment as per rated project capacity has been installed and energy has flown into the grid.
- iii) Power Producer shall ensure that the equipment up to the rated Capacity has been installed and completed in all respects before the Schedule Commissioning Date.
- iv) In case any additional supporting/revised documents are asked by APDCL, the same have to be submitted/uploaded by the Power Producer.
- v) The power producer shall have to submit commissioning date along with commissioning order issued by State Nodal Agency/State Utility.
- vii) Early Commissioning of a Solar Project prior to the scheduled commissioning date is permitted on acceptance of power by APDCL. In order to facilitate this, shall inform the concerned RLDC/SLDC and APDCL well in advance the date on which it intends to synchronize the Power Project to the Grid System. The POWER PRODUCER shall be required to give an advance notice of at least 90 days prior to the proposed commissioning date.
- viii) Joint Meter Reading (JMR) shall be taken at Delivery Point and Pooling Substation (if applicable)/plant premise at the time of connectivity of the Project with Grid. This shall include information of respective meters installed at delivery/ interconnection point and pooling substation/plant premises.

### **Documents to be submitted to APDCL within 30 days after synchronization:**

The Power Producer shall have to submit the hardcopies to APDCL:

1. Covering Letter
2. Board resolution for authorized signatory.
3. Invoice of the major equipment (including but not limited to modules, Inverters/PCUs, Weather Monitoring Stations/ DC Cables and for all the equipment's).
4. All supporting documents towards meeting the technical compliance along with datasheet/ warranty certificates/ contract agreement etc. as mentioned in Annexure-A.
5. Installation report duly signed by the authorized signatory as per Appendix-A-2
6. Plant Layout clearly mentioning the details of rows and number of modules in each row.
7. Electrical inspector report along with all annexes/attachments. It would be the responsibility of the Power Producer to collect the certificate.
8. Power Producer shall ensure Connectivity to the grid from concerned CTU/ STU/ Transmission Utility/DISCOM. Connectivity report as per the Appendix-A-3
9. Synchronization Certificate as per prescribed format issued by respective CTU/STU/Transmission Utility/DISCOM for ascertaining injection of power into grid as per Appendix-A-4.
10. Relevant document from SLDC/ RLDC acknowledging successful data communication between plant end and SLDC/RLDC.

## **Appendix-A-2**

### **Installation Report**

*(To be provided by POWER PRODUCER and to be submitted at least 10 days prior to commissioning date by Appropriate Authority of State)*

|         |   |       |
|---------|---|-------|
| Sr. No. | Capacity of the Project (MW)  |       |
|         | Capacity already commissioned (MW)  |       |
|         | Capacity proposed to be commissioned (MW)   |       |
| I.      | Technology used<br>(Mono/Multi Crystalline / thin film / Others; please specify along with capacity of each type) |       |
| II.     | Rating of the each module (Wp)  |       |
| III.    | Angle from horizontal at which array is installed   |       |
| IV.     | Number of modules installed of each type  |       |
| V.      | Source(s) of the cells installed of each type   |       |
| VI.     | Source(s) of the Modules installed of each type   |       |
| VII.    | Number of PCUs / Inverters installed  |       |
| VIII.   | Source of the PCUs / Inverters (Name of supplier with address)  |       |
| IX.     | Rating of PCUs / Inverters  |       |
| X.      | Date of installation of full capacity (as per capacity proposed to be commissioned)                               | ----- |
|         | PV arrays   |       |
|         | PCUs / Inverters  |       |
|         | Transformers  |       |

### **Appendix-A-3**

#### **Sample Connectivity Report**

*(To be provided by concerned CTU/STU/Transmission Utility/Discoms)*

This is in compliance to the office order of the -----,----- Discom, <Place> issued vide office order <No.><dated>, the committee constituted vide said order has completed the work for commissioning of <kV> Bay & Metering Equipment to interconnect the <MW> Solar Power Generation Plant (having <technology>) with Grid installed at <Village>, <Tehsil>, <District> in the <State> on <date>. The details of Solar Power Plant are as under:-

| S. No | Name of Solar Power Developer & Location     | Capacity Mentioned in PPA | Connectivity   | Details of Solar Power Plant<br>(Transformer, Inverter, Modules, Switchgear)   |
|-------|--|---------------------------|--|--|
| 1     | <M/s><br><Village><br><Tehsil><br><District. | <> MW                     | Metering Detail at Delivery Point<br>(<Village><br>S.No. of <kV> CT<br>i) <R-Phase> ii)<br><Y-Phase><br>iii) <B-Phase><br>S.No. of <kV> PT<br>i) <R-Phase> ii)<br><Y-Phase><br>iii) <B-Phase><br>S.No. of Main<ABT> Meter><br>S.No. of Check <ABT Meter><br>Metering Equipment installed at<br>Receiving end on dated: <><br>33 kV GSS, <>, <>, (<Distt.>) | Transformer<br><Make/Type:><br><Sr. No.><br>Inverters<br><Make/Type:><br><Sr. No.><br>Modules <Make: ><br><W>, < W ><br><Total: Nos.><br>Switchgear<br>Panels<br><Make/Type:><br><Sr. No.><br>Protection Provided:<br>Under/Over voltage,<br>Over current & Earth fault. |

The Commissioning date of various equipment is as under:

<kV> line from --- to -----, completed on date -----.

Line Bay at < kV > GSS, ----- charged for ---- on -----.

<kV> line charged from -----to----- on date-----.

Main & check metering commissioned on ..... (initial record of main/Check meters at the time of

Commissioning is to be taken and

enclosed) Complete system

commissioned on date-----

The Joint Inspection Report of metering arrangement & copy of permission of Electrical Inspector is enclosed herewith.

**Appendix-A-4**

**Sample Synchronization Certificate**

It is certified that ----- MW (Capacity) Solar Photovoltaic Power Project of M/s. -----, Village  
----- Tehsil/Taluka -----, District ----- was Grid connected on ..... (Date) at-----  
-- Hrs.

It is further certified that the Project was synchronized and supply of power into the  
grid from the  
Project connected on ..... (Date) at ----- Hrs.

The above certificate is issued on the basis of  
MRI record. NB:

- (i) The above certificate shall be issued by concerned CTU/ STU/ Transmission  
Utility/Discoms
- (ii) Copy of duly signed MRI is to be enclosed.

## **Appendix-A-5**

### **Sample Part Commissioning / Full Commissioning Certificate of Solar PV Power Project**

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

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

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

#### **SCHEDULE 4: SPECIFICATION OF ELECTRICAL ENERGY DELIVERY**

1. The generation voltage from the Solar Photovoltaic Grid Interactive Power Project of M/s. \_\_\_\_\_ is KV. It uses unit connection of generator, generator transformer and unit transformer.
2. The generated power at \_\_\_ KV will be stepped up to \_\_\_\_\_ KV at the Project Site and connectd \_\_\_ KV at for the purpose of interconnection with the Grid System.