Expression of Interest

For Installation of Decentralized Grid Connected Ground/ Stilt Mounted Solar Based Power Plants of capacity 500 KW to 2 MW on Barren/ uncultivable and agricultural land falling within a radius of 5KM from 33/11 KV Substations notified by UHBVN and DHBVN under PM KUSUM SCHEME

Shakti Bhawan, Sector-6, Panchkula, Haryana, 134114
Tel: 0172- 2580210 / 2583752
Email: cecommercial@uhbvn.org.in
1. Key Points for registration of applicants for installation or leasing of land under solar energy plant

i. Haryana Power distribution companies UHBVN and DHBVN (herein after referred as Haryana Discoms) hereby invite substation wise expression of interest from individual farmers/ groups of farmers / cooperative societies / Panchayats / Farmers Producer Organisations (FPO) / Water User Associations (WUA), herein after called Solar Power Generator (SPG) for setting up of decentralized grid connected ground/ stilt mounted solar power plant of capacity 500 KW to 2 MW under PM Kusum Scheme, to be connected to respective 33/11 KV substations of rural areas notified by Haryana Discoms. Haryana Discoms, however, may allow setting up of solar power plant of capacity less than 500 KW in specific cases. The Solar Power Plants will be installed preferably within 5km radius of respective 33/11kV substations. Solar Power Plants near these 33/11 KV substations may be developed, preferably by farmers, utilising their barren and uncultivable land for solar power plants. Cultivable land may also be used if the Solar Power Plants are set up on stilts where crops can be grown below the stilts and RE solar power shall be sold to Discoms.

ii. The solar power generated will be purchased by Discoms at a pre-fixed levelized tariff of Rs 3.11/kWh determined by HERC in Order dated 20.12.2019. In case, the aggregate capacity offered by applicants is more than notified capacity for a particular sub-station, bidding route will be followed by Discoms to select Solar Power generator and in such cases the pre-fixed levelized tariff will be the ceiling tariff for bidding. Selection of bidders will be based on the lowest tariff offered in the ascending order as quoted by the bidders in the closed bid or e-reverse auction as the case may be.

iii. List of 33/11 KV sub-stations notified by UHBVN and DHBVN along with available capacity for setting up solar power plants is provided at Annexure-II.

iv. In case the individual farmers/ group of farmers/ cooperatives/ panchayats/ Farmer Producer Organisations (FPO)/ Water User associations (WUA) etc. are
not able to arrange equity required for setting up the Solar Power Plant, they can opt for installing the Solar Power Plant through developer(s). In such a case, the land owner will get lease rent as mutually agreed between the parties. The lease rent may be in terms of Rs per year per acre of land or in terms of Rs per unit energy generated per acre of land area. The farmer(s) may opt for payment of lease rent directly into their bank account by the Discoms, from the payment due to the developer. A model Land Lease Agreement to facilitate the beneficiaries as prepared by MNRE is attached at Annexure- I. However, the terms of Land Lease Agreement may be finalised on mutual consent of concerned parties.

v. Such developers who have signed lease agreement with the farmers/ groups of farmers / cooperative societies / Panchayats / Farmers Producer Organisations (FPO) / Water User Associations (WUA) for setting up of solar power plant can also apply under the Scheme.

vi. An applicant/SPG will not be allowed to apply for more than one Solar Power Plant for a particular 33/11kV substation.

vii. Eligible applicants can download the instructions and application form (Form-A) from the online web portal of Haryana Discoms and submit their registration for the following two options:

   a) Setting up of Solar Energy Plant (private investment)

   b) Leasing of land for setting up of solar energy plant (if there is no arrangement for capital)

viii. Individual farmers/group of farmers/cooperative societies/Panchayat /Farmer Producer Organization and Water Consumers Association those are not in a position to set up solar power plants themselves but are willing to lease/rent their land for setting up of solar power plant by developer shall ensure their registration on the UHBVN/DHBVN portal by 30.01.2020. The list of such applicants desirous to lease their land for setting up solar energy plant under the scheme will be displayed on UHBVN/DHBVN website by 31.01.2020.

ix. Developers willing to participate in EOI to setup solar power plants on leased land should have signed lease agreement with the land owner or with any of the eligible
applicants who have registered themselves on UHBVN/DHBVN website for leasing out their land and only thereafter he can apply under the Scheme.

x. SPGs will submit the Expression of Interest for setting up of Solar Power Plant in Form-A, on the website of the UHBVN/DHBVN from 14.01.2020 to 10.02.2020. The applicants/SPGs may seek assistance for online submission from Sub Divisional Office/Executive Engineer Office falling nearest to the notified 33/11 KV substation of UHBVN/DHBVN.

xi. After online submission the applicant/SPG, he will get Registration ID which has to be secured by the applicant/SPG for the future correspondence.

2. Directions for Sub Divisional Offices:

i. Sub Divisional Officers shall download all the necessary instructions from the website of UHBVN/DHBVN for implementation the Scheme.

ii. Sub Divisional Officers shall conduct meeting with the Panch, Sarpanch and other local representatives nearby 33 KV sub-station areas for spreading awareness about the scheme.

iii. Sub Divisional Officers shall ensure that such meeting should be conducted on all 33/11 KV Station identified under the Scheme before 31.01.2020.

iv. Sub Divisional Officers shall mandatorily provide the receipt of Application ID to those applicants who have sought assistance for online submission of the application form under the Scheme.

In case of any additional information related to the setting up of solar power plant under the PM Kusum Scheme, the following officers can be contacted further:

<table>
<thead>
<tr>
<th>Role</th>
<th>Contact Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chief Engineer/Commercial; Email:</td>
<td><a href="mailto:cecommercial@uhbvn.org.in">cecommercial@uhbvn.org.in</a></td>
</tr>
<tr>
<td>Executive Engineer/Commercial; Mb: 9357919014; Email:</td>
<td><a href="mailto:secommercial@uhbvn.org.in">secommercial@uhbvn.org.in</a></td>
</tr>
<tr>
<td>AEE/Commercial; Mb: 9569846445; Email:</td>
<td><a href="mailto:secommercial@uhbvn.org.in">secommercial@uhbvn.org.in</a></td>
</tr>
</tbody>
</table>
3. Terms and Conditions related to PM-KUSUM Scheme.

1. Background:
   
i. "Pradhan Mantri Kisan Urja Suraksha Evam Utthan Mahabhiyan" Scheme (PM KUSUM) was launched by Ministry of New and Renewable Energy, Government of India, though Office Memorandum, dated 08.03.2019 to provide additional source of income to the farmers by allowing them utilise their barren or uncultivated land for setting up of solar power plant. The Operational guidelines for implementation of the scheme have been issued by MNRE, GoI vide Office Memorandum dated 22.07.2019, which is available on the online portal of UHBVN/DHBVN.

   ii. Under Component-A of PM KUSUM, Solar Power Plants of capacity 500 KW to 2 MW are to be setup by individual farmers/ group of farmers/ cooperatives/ panchayats/ Farmer Producer Organisations (FPO)/Water User Associations (WUA), on barren and uncultivated land preferably falling within the five km radius of the 33/11 KV sub-stations to the extent of spare capacity, notified against each substation in Annexure-II, to feed renewable power into the grid.

      In case the farmers/ group of farmers/ cooperatives/ panchayats/ Farmer Producer Organisations (FPO)/ Water User associations (WUA) etc. are not able to arrange equity required for setting up the Solar Power Plant, they can opt for installing the Solar Power Plant through developer(s).

2. Responsibilities of Solar Power Generator (SPG):

   The Solar Power Generator (SPG) will be responsible for the following tasks:

   i. The SPG shall develop the necessary land and related infrastructure to set up the solar power plant and ensure timely completion of project and connectivity of the solar power plant from 33/11 KV substation as per the prescribed time lines.
ii. SPG shall submit all necessary documents related to the ownership of land for setting up of solar power plant or provided lease agreement for the land on which he planned to set up solar power plant.

iii. SPG shall obtain all necessary approval and consent for related document from the appropriate authorities.

iv. The design, construction, completion, testing and commissioning of the project will be carried out by the SPG in accordance with the applicable rules, Grid Code, Utility established practices, other relevant regulations and terms and conditions of the contract.

v. To supply the power generated continuously to the distribution corporation during the period of 25 years stipulated in the contract.

vi. SPG will ensure adequate arrangements for interconnecting solar power plant, metering point, delivery point with the feeding 33/11 KV substation.

vii. The solar power project shall be ensured to be free from any outage during the contract period.

viii. SPG shall comply all the term and conditions under the contract.

ix. SPG shall be responsible to coordinate directly with concerned authorities related to Forecasting & Scheduling, Deviation Settlement Mechanism and Grid Code and all liabilities there under.

x. SPG shall have to follow all rules and regulations applicable in Haryana regarding registration with State Nodal Agency. SPG shall also be responsible to remain updated about the applicable fee for registration online payable under concerned solar policy applicable within the state.

3. Capacity and land requirement of Solar Plant

i. Application for setting up of Solar Power Plant having capacity 500 KW to maximum 2 MW can be applied under this Scheme. However, in specific cases Discoms may allow setting up of Solar Power Plant of capacity less than 500 KW.
ii. The land requirement for setting up a solar power plant shall be 4 Acres per MW.

4. Eligibility for the scheme:

i. Farmers/ group of farmers/ cooperatives/ panchayats/ Farmer Producer Organisations/Water User Associations which have their own land or have land lease agreement shall be eligible for participating under this scheme and will be treated as Solar Power Generators (SPG).

ii. In case the farmers/group of farmers/cooperatives/ panchayats/ farmer producer organisations and water user associations are not able to arrange required equity for setting up of solar power plant, then they can opt for developing solar power plant through a developer by signing a land lease agreement. In such a case, the owner land will get lease rent on mutually agreed terms and conditions between the parties. Developer setting up the solar power plant will be entitled as Solar Power Generator (SPG) under the Scheme.

iii. Developer desirous to set up the solar power plant on the leased land shall meet one for the following eligibility criteria:

   It should be:

   i. A Company registered under the Indian Companies Act, 1956 amended from time to time.
      Or,
   ii. Consortium having one member is as Lead Member (having 51% of shareholding), shall get it register under the Companies Acts, 1956 after getting selected as SPG under Scheme.
      Or,
   iii. Limited Liability Company.
      Or,
   iv. Partnership Company
      Or,
   v. Registered Proprietorship Company
5. Land Lease Agreement

i. In case the farmer/farmer bodies opt to set up the solar power plant thorough the developer, then the farmer/farmer bodies will be entitled for lease rent as per the mutually agreed terms and conditions. The amount of the lease rent will be in the form of Rs. per year per acre of land or in terms of Rs per unit energy generated per acre of the land area. Farmers may also opt for payment of their lease rent directly in their bank accounts by Discoms.

ii. Leasing of land will be a bi-partite agreement between the farmer and the developer and Discoms will not be held responsible for the failure in getting the land leased out to a developer.

6. Financial Eligibility

i. No financial eligibility will be required, in case the farmers/group of farmers/cooperatives/ panchayats/ farmer producer organisations and water user associations opted to develop the project with their own investment.

ii. In case of a Developer setting up of Solar Power Plant on leased land, his Net worth shall not be less than Rs. 1.00 Crore per MW (of the applied capacity). The Developer shall submit the requisite document in support of the same duly certified from Chartered Accountant.

7. Application fee and Bank Guarantee

i. A non-refundable application fee of Rs 5000 per MW or part thereof + GST (Goods and Service Tax) of the applied capacity shall be submitted by the applicant through online mode on the UHBVN/DHBVN website.

ii. Applicants desirous for setting up solar power plant under the scheme will submit Earnest Money Deposit (EMD) of Rs. One lakh/MW in form of Bank Guarantee. The bank guarantee shall be issued on the name of Chief Engineer Commercial, Uttar Haryana Bijli Vitran Nigam, Room No -205, Shakti Bhawan, Sector-6, Panchkula, Haryana (India) for UHBVN and Chief Engineer Commercial, Dakshin Haryana Bijli Vitran Nigam, Vidut Nagar, Hisar, Haryana (India) for DHBVN with
a validity at least for a period of 6 months. EMD of the applicants not selected under the scheme shall be returned within 15 days, from the date of issuance of Letter of Award (LoA) to the successful participants.

iii. Successful participants shall have to submit Performance Bank Guarantee (PBG) of Rs 5 lakh/MW within 30 days from the date of issuance of Letter of Award (LoA) by Discoms. On submission of PBG, the bank guarantee against the EMD shall be returned to the successful participant. PBG shall be drawn in favour of Chief Engineer Commercial Uttar Haryana Bijli Vitran Nigam, Room No -205, Shakti Bhawan, Sector-6, Panchkula, Haryana (India) for UHBVN and Chief Engineer Commercial, Dakshin Haryana Bijli Vitran Nigam, Vidut Nagar, Hisar, Haryana (India) for DHBVN and shall have validity for a period of 12 months from the date of issuance of LoA. PBG will be returned immediately after the successful commissioning of the project, after taking into account any penalties due to delay in commission as per the Model PPA.

8. **Tariff for purchase of power from Solar Power Generator**

i. If the aggregated capacity received from the eligible applicants on particular substation is less than or equal to the spare capacity notified by the Discoms, subject to the total capacity of 10MW for UHBVN and 15 MW for DHBVN from all SPGs as per procedures laid down in para 9 below, LoA will be issued to the applicants and the electricity produced from the solar power plant will be purchased by Discoms at the pre-fixed levelized tariff of Rs 3.11 per kWh determined by the Haryana Electricity Regulatory Commission (HERC) vide Order dated 20.12.2019.

ii. However, if the total aggregate capacity applied by the eligible applicants for a particular sub-station exceeds from the capacity notified by the Discoms, the reverse bidding process will be followed by UHBVN/DHBVN to select the solar power generator and in such cases the levelized tariff of Rs 3.11 per kWh determined by HERC shall be considered as ceiling tariff for reverse bidding process. Selection of bidders will be based on the lowest tariff offered in the ascending order as quoted by the bidder in the e-reverse auction.

Application Process

i. List of 33/11 KV Sub Stations along with the available capacity for setting up of solar power plants under Component -A of PM KUSUM Scheme is provided as Annexure-II

ii. All eligible applicants, in accordance to the substation details provided in Annexure-II, shall submit their relevant information and documents prescribe in Form-A on the online portal of UHBVN/DHBVN.

iii. An SPG will not be allowed to apply for more than one Solar Power Plant for a particular 33/11kV substation. The EOI of an SPG will also be disqualified if it is found that its proprietor/partner/director/member has also filed EOI as proprietor/partner/director/member for another SPG for the same substation.

Selection Procedure

I. The MNRE has allocated a total capacity of 10MW for UHBVNL and 15MW for DHBVNL in FY 2019-20 for all the substations under component ‘A’ of the KUSUM Scheme. Accordingly, the successful bidders shall be selected for setting up Solar Power Plants for a total capacity of 10MW for UHBVNL and 15MW for DHBVNL as per the following criteria:

Online applications received by UHBVN/DHBVN will be selected as under -

i. On first come first serve basis for the total capacity of 10MW for UHBVN and 15MW for DHBVN as per capacity available on all 33/11kV substations provided in Annexure-II.

ii. If the total aggregate solar capacity applied by the eligible applicants at particular substation is less than or equal to the spare capacity notified for that substation, then all the eligible applicants will be declared as successful bidders and LOA at pre fix levelized tariff of Rs 3.11 per kWh determined by the HERC will be issued to the applicants.
iii. If the solar power capacity applied by the eligible participants is more than the notified capacity of substation, then Discoms will initiate reverse tendering process to select the SPG. Discoms will invite the online bid from the applicants by setting the prefix levelized tariff of Rs 3.11 per kWh as the ceiling rate. On the basis of ascending rates offered by the applicants, LOA will be awarded to the successful bidders upto the notified capacity of the substation.

iv. Applicants/SPGs shall submit their expression of interest on the websites of UHBVN/DHBVN from 14.01.2020 to 10.02.2020. In case E- Reverse Auction is held for any substation in the event of total aggregate capacity applied by SPGs being more than the notified capacity of a particular substation, the SPGs will be required to submit their online bid for E-Reverse Auction on https://etenders.hry.nic.in from 14.02.2020 to 21.02.2020. However, as MNRE has allocated capacity of 10MW and 15MW for UHBVN and DHBVN respectively for FY 2019-20, senior most applicants totalling the said quantum shall be selected for the current financial year. The rest shall be considered against the capacity which will be allocated by MNRE in the next financial year.

v. The participants of reverse tendering process will have to submit the prescribed Application Fee and bank guarantee against the Earnest Money Deposit within the stipulated timelines prescribed by Discoms, failing which will lead to disqualification of the participant.

vi. For enforcing the criteria of First come first serve basis, the time of receipt of the EOI in terms of date, hour, minutes and seconds. For example, application received on 14.02.2020, 15:10:30 (hours: minutes: seconds) will be considered senior to the one received on 14.02.2020, 15:10:31.

vii. Discoms will issue LOA only to those successful applicants who have deposited the application fee and bank guarantee against the Earnest Money Deposit within the prescribed timelines and fulfils all the other conditions laid down in EOI.
viii. On issuance of LOA the successful participants will submit prescribed Performance Bank Guarantee (PBG) and other relevant documents to UHBVN/DHBVN within one month of issuance of LOA. The selected SPG shall execute PPA with the Discom within the stipulated period. If the selected SPG fails to execute the PPA within the stipulated time period then the bank guarantee equivalent to EMD shall be encashed by the UHBVN/DHBVN as penalty.

10. Connectivity of Solar Power Plant with 33 KV Sub Station

i. Solar power plants having capacity of 500 kW to 2 MW shall be set up under this scheme which will be connected to 33/11 KV substations through 11 KV line.

ii. Laying of 11 KV lines from solar power plant to 33/11 kV substation, construction of bay & related switchgear at substation where metering of the plant is to be done, shall be done by SPG.

iii. Discoms will facilitate SPG in getting Right of Way for laying of 11 kV line.

iv. SPG may also construct the 11 kV through Discoms lines by paying the applicable cost and other charges.

v. SPG shall be responsible for the maintenance of the dedicated 11 KV line.

vi. If there are more than one SPG are awarded at a particular sub-station, they shall be permitted to jointly establish a common transmission line to feed the sub-station with the approval of Discoms.

vii. SPG shall have to deposit the applicable Connectivity Charges to the Discoms.

viii. SPG has to comply with the Grid Code and other related Regulations as applicable.

11. Power Purchase Agreement

i. Power Purchase Agreement shall be signed by SPG with the UHBVN/DHBVN within a period of two months from the date of issuance of LOA. PPA shall be for a period of 25 years from the Commercial Operation Date (COD) of solar
power plant. Draft PPA is provided as Annexure-III.

ii. PPA can be extended beyond the period of 25 years with mutual consent of SPG and UHBVN/DHBVN.

iii. As a measure of payment protection, UHBVN/DHBVN shall provide letter of credit (LC) and ESCROW account to SPG as per the terms and conditions specified in the PPA.

12. Electricity purchased from these solar power plants will be accounted by UHBVN/DHBVN to meet Renewable Purchase Obligation.

13. SPG will be free to adopt any technology based on solar energy. But in order to ensure only quality systems are installed, prevailing MNRE/BIS specifications and quality control orders applicable for solar modules, inverters, BoS and other equipment shall be followed.

14. SPGs shall complete the Project Financing Arrangements for its Project and shall provide relevant documents to UHBVN/DHBVN in this regard within six Months from the Date of issuance of LoA by UHBVN/DHBVN for the project.

15. If any information/document provided by the SPG is found to be incorrect at any stage, the application of SPG shall be rejected and the bank guarantee submitted by the applicant will be enchased.

16. Reduction in Capacity Utilization Factor of Solar Plant

   i. It is mandatory for SPG to maintain Capacity Utilization Factor (CUF) of at least 15% annually during the entire period of Power Purchase Agreement.

   ii. In case of CUF being maintained below 15%, the SPG shall compensate the Discoms for the shortfall in power supply as per the provisions laid down in PPA.

   iii. CUF shall be relaxed to the extent of grid unavailability. Further, the compensation shall not be applicable for Force Majeure Events identified under PPA.
iv. Barring of other unforeseen circumstances, 95% of grid availability shall be maintained by Discoms.

17. Commissioning Period for installation of solar power plant

i. SPG should commission the Solar Power Plant within the period of 9 months from the date of issuance of LOA by UHBVN/DHBVN. In case of non-commissioning of the project within the stipulated period, the penalty amount will be recovered from Performance Bank Guarantee (PBG) as per the terms and conditions of the Power Purchase Agreement (PPA).

ii. In case, the Commissioning of the Project is delayed beyond 11 Months from the date of issuance of LoA, it shall be considered as an event of default on part of SPG and the contracted capacity shall be reduced/amended to the project capacity commissioned at the end of 11th month from the date of issuance of LOA and the PPA for the balance capacity will be terminated and shall be reduced from the capacity awarded to the SPG.

18. Commercial Operation Date - COD

The Commercial Operation Date (COD) shall be considered as the actual date of commissioning of the solar power plant as declared by the Commissioning Committee of UHBVN/DHBVN.

19. Roles and responsibilities of stakeholders as per MNRE guidelines

MNRE

i. Allocation of total aggregate capacity of solar power plant under the Scheme.

ii. To provide Performance Base Incentive (PBI).

SNA

i. State Nodal Agency (SNA) will coordinate with States/UTs, DISCOMs and farmers for implementation of the scheme.
ii. SNA will assist the farmers in project development activities including formulation of DPR, PPA/EPC contracts, getting funds from financial institutions, etc.

iii. For settlement of any issues arising during selection of solar/other renewable energy based power plants and their implementation, a State level Committee under the chairmanship of Principal Secretary (Renewable Energy/Energy) will be setup by the participating State/UT and SNA of that State will be responsible to coordinate/organize the quarterly meetings of the State Level Committee.

iv. SNAs shall ensure publicity of the scheme and create awareness through advertisements etc, and also monitor the implementation of the scheme

**Discoms**

i. Notification of 33/11 KV sub-station and capacity available on them for setting up solar power plants.

ii. Selection of Solar Energy Producers

iii. Issuance of LOA and signing of Power Purchase Agreement with the successful applicants

iv. Providing grid connectivity to solar power plants.

v. Ensure “must-run” status to the solar power plants installed under this scheme and will keep the feeders ‘ON’ during sunshine hours of a day.

vi. If SPG has taken land from a farmer/group of farmers on lease for the project, the amount of monthly lease rent would be paid by the UHBVN/DHBVN to the lessor directly in his/her bank account before 5th day of the month following the month for which the lease rent is due. In such a case, the lease rent paid by the UHBVN/DHBVN will be deducted from monthly payment due to the SPG.

**SPG**

SPG shall participate in the selection process to be carried out by DISCOMS. In case of selection, they have to sign PPA and install the plant as per provisions of these guidelines and applicable rules and regulations.
Application form for setting up of solar power plant under KUSUM Scheme

<table>
<thead>
<tr>
<th>1.</th>
<th>Description of Applicant</th>
</tr>
</thead>
<tbody>
<tr>
<td>i.</td>
<td>Individual Farmer</td>
</tr>
<tr>
<td></td>
<td>Name, Aadhaar Card number (copy to be enclosed)</td>
</tr>
<tr>
<td>ii.</td>
<td>Group of Farmers' :</td>
</tr>
<tr>
<td></td>
<td>Name of the group or head of the group, list of members, and registration copy to be attached</td>
</tr>
<tr>
<td>iii.</td>
<td>Co-operative Society:</td>
</tr>
<tr>
<td></td>
<td>Name of the co-operative society (enclose copy of registration).</td>
</tr>
<tr>
<td>iv.</td>
<td>Panchayat</td>
</tr>
<tr>
<td></td>
<td>Name of Panchayat</td>
</tr>
<tr>
<td>v.</td>
<td>Farmer Producer Organization:</td>
</tr>
<tr>
<td></td>
<td>Name of organization, (enclose copy of registration)</td>
</tr>
<tr>
<td>vi.</td>
<td>Developer</td>
</tr>
<tr>
<td></td>
<td>Name of Developer, (enclose copy of registration)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2.</th>
<th>Contact Details:</th>
</tr>
</thead>
<tbody>
<tr>
<td>i.</td>
<td>Correspondence address:</td>
</tr>
<tr>
<td>ii.</td>
<td>Name of the authorized person, (enclose letter of authorization)</td>
</tr>
<tr>
<td>iii.</td>
<td>Mobile Number:</td>
</tr>
<tr>
<td>iv.</td>
<td>E-mail Id</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3.</th>
<th>Details of 33 KV substation notified by the UHBVN/DHBVN, whose land is available within 5 km radius.</th>
</tr>
</thead>
<tbody>
<tr>
<td>i.</td>
<td>Name of power utility UHBVN/DHBVN</td>
</tr>
<tr>
<td>ii.</td>
<td>District</td>
</tr>
<tr>
<td>iii.</td>
<td>Panchayat committee</td>
</tr>
<tr>
<td>iv.</td>
<td>Name of Subdivision of UHBVN/DHBVN</td>
</tr>
<tr>
<td>v.</td>
<td>Name of Substation</td>
</tr>
<tr>
<td>vi.</td>
<td>Declared capacity for Solar Power Project</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4.</th>
<th>Land Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>i.</td>
<td>Name of Village</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td><strong>ii.</strong></td>
<td>Tehsil /Panchayat Committee</td>
</tr>
<tr>
<td><strong>iii.</strong></td>
<td>District</td>
</tr>
</tbody>
</table>
| **iv.** | A.- Khasra No. ------ Area (acre / sqm)  
B.- Khasra No. ------ Area (acre / sqm)  
C.- Khasra No. ------ Area (acre / sqm)  
Total area (Acre/ sqm) -------------------  
Please attach a copy of Jamabandi |
| **5.** | Solar plant capacity (in MW) offered/proposed by the applicant:  
The proposed capacity should not exceed 2 MW or the capacity declared by the UHBVN/DHBVN (whichever is less). For installation of one MW Solar Plant, four acre land is required. |
| **6.** | Distance between the Proposed land and sub-station notified by the UHBVN/DHBVN |
| **7.** | Options available to the applicants for installation of Solar Power Plants: -  
1. Setting up complete SPP himself.  
2. Leasing land for setting up of SPP. |

**Signature of Applicant:**

**Name and Address of Applicant:**

**Mobile Number:**

**Email Id:**
MODEL LEASE AGREEMENT
This AGREEMENT OF LEASE entered into on this_______day of __________________________at__________________.

BETWEEN:

____________________  
(hereinafter referred to as the “LESSOR/OWNER”, which expression shall, wherever the context so requires or admits, SHALL mean and include his legal heirs, executors, administrators and assignees);

AND:

____________________ (Name of Renewable Power Generator  
(RPG)) Represented by ____________  
(here in after referred to as the “LESSEE, which expression shall, wherever the context so requires or admits, SHALL mean and include its executors, administrators and assignees successors in interest).

I. WHEREAS the Lessor is the owner in possession of the Barren/Agricultural land measuring _____Acre _____Kanal_____ marla____Share out of Hadbast No.______Khewat No.________________Khatoni No. ______Khasra No.______________ Mustil No.________________Kila No.________________situated at Village/City ____________ Tehsil_________ District which is morefully described in the Schedule hereunder and hereinafter referred to as the Schedule property.  
(Note: The legal revenue terms to be changes to those prevalent in the State)
II. WHEREAS the ___________________________ (Name of RPG) being a ___________________________ (Details of RPG) with an object to plan, develop and operate Renewable Energy based Power Plant (REPP) under MNRE Scheme notified on 8th March 2019.

(a) WHEREAS pursuant to the request of the Lessee, the Lessor has agreed to grant the lease, the Lessee has agreed to take on lease from the Lessor the land which is morefully described in Schedule written hereunder and hereinafter referred to as “THE SCHEDULE PROPERTY” for setting up of the “___ Power Plant”.

(b) That pursuant to the request of the Lessee, the Lessor has submitted an application under Section_____ for the conversion of the land and on behalf of the Lessor/owner the__(Name of RPG) shall presume that the land is deemed to have been converted for non-agricultural purposes. (Clause to be modified as per State Policy for use of Agriculture land for generation of renewable power)

III. NOW THIS AGREEMENT OF LEASE WITNESSES THAT in consideration of the above and of the mutual covenants of the Parties hereto, the Lessor hereby grants and the Lessee hereby accepts the lease of the Schedule property on the following terms and conditions:

1. PURPOSE OF LEASE:  
The grant of lease by the Lessor to the lessee in respect of the Schedule property is for the purpose of developing a_Power Plant under MNRE Scheme notified on 8th March 2019.

2. PERIOD OF THE LEASE  
The period of this Lease shall be for Twenty-seven (27) years from this day which may be renewed at the option of the Lessee and Lessor for further period, on such mutually agreeable terms as may be agreed at the time of renewal, by both the parties, by executing and registering separate Lease Agreement.
3. **RENT**

(a) The rent payable by the Lessee to the Lessor for the Schedule Property shall be Rs. \text{________}/-(Rupees\text{________}) only per annum per Acre. The portion of the ______ land less than one Acre shall be calculated in terms of Square meter and the rent payable for the same shall be at Rs.\text{________}/- per Square meter or part thereof, per annum.

OR

The rent payable by the Lessee to the Lessor after Commercial Operation of the power plant shall be Rs.\text{________}/- per unit of total power generated from the power plant installed on the land of Lessor. Till the start of commercial operation of the plant, the rent shall be Rs.\text{________}/-(Rupees\text{________}) only per annum per Acre.

(b) The annual rent shall be paid in twelve equal instalments and each instalment to be paid by 5th day of every month, by crediting the same to the Lessor’s Bank Account the details of which may be furnished by the Lessor from time to time. OR

In case of lease rent on the basis of Rs.\text{________}/-per unit, the monthly lease rent would be calculated on the basis of monthly electricity injected in to the grid from the power plant installed on the land of Lessor.

(c) Lessor may opt for payment of lease rent directly from the Distribution company, which will sign Power Purchase Agreement with Lessee for the above-mentioned __Power Plant to be installed by Lessee. In such a case the Distribution company will pay the lease rent to Lessor on monthly basis from the proceeds payable to the Lessee in lieu of Power supplied by Lessee. In order to give this effect a suitable provision will be made in the PPA to be signed between Lessee and the Distribution Company.

(d) [on mutual agreement between Lessor and Lessee] The rent hereby reserved shall be paid by enhancing the same at the end of every _year(s), at \text{________}/- on the rent hereby agreed.
(e) If the Lessee delays the payment of rent by due date of every month, for any reason, the same shall be paid by adding the interest at the rate % for the said delayed period.

4. **GENERAL TERMS**
   
i. In consideration of the rent herein agreed as payable to the Lessor being paid by the Lessee regularly and on complying other terms and conditions and covenants by the Lessee, the Lessee shall peacefully possess and enjoy the **Schedule Property** during the lease period without any interruption by the Lessor.

   ii. The Lessor shall allow the Lessee or its representatives to conduct survey and other related work.

   iii. The Lessor has no objections for the Lessee to establish the **Power Plant** in the Schedule property which is the purpose of the grant of this lease and to that effect the Lessee entering into any agreement/s, deeds with companies, individuals, developers/third party etc. in respect of the Schedule property.

   iv. The Lessor has no objections for the Lessee or its representatives for installation of machineries, equipments, etc. for generation of **power** in the Schedule property and all work relating to thereto including but not limited to laying poles, wires, etc.

5. **EVENT OF SALE, ACCEPTANCE OF LEASE BY THE NEW OWNER**
   
   (a) In the event of the owners transferring their rights/interest in any manner during the existence of the lease to any other person, the same may be allowed without affecting the rights of the Lessee under the Lease Agreement in any manner and the owners/purchasers/transferees shall inform the Lessee about the acquiring of the right/interest in respect of the leased property and on receipt of such information, the Lessee shall accept such new purchaser’s/transferee’s ownership of the land and obtain a written confirmation from such new owner/purchaser/transferee to the effect that he will be bound by the terms of the Lease Agreement.
(b) In the event of the owners transferring their rights/interest to any other person, the same may be informed to the Lessee and the Lessor shall ascertain and obtain all the necessary documents from the transferee to the effect that the transferee will be bound by the terms and conditions of the Lease Agreement for the balance period of the lease or for using the said documents for renewal of the lease for the balance period.

c) During the subsistence of the lease, the Lessor shall not carry any activity, in the Schedule property, other than those agreed in this agreement; The change in the legal status of the Lessee shall not affect the terms and conditions of this Agreement.

d) The original Lease Agreement shall be with the Lessee and the copy of the same will be with the Lessor.

e) In the event of any dispute in respect of the land, the Lessee shall deposit the rent in the concerned civil court. In the event of retention of the rent with the Lessee, the Lessee shall be pay the same together with interest thereon at the rate % for such period.

f) The Lessee shall not offer or create any charge or encumbrance by offering the same as by way of mortgage, security, etc. in favour of any Banks or financial institutions in respect of the loans or advances or any other financial facilities that may be availed by the Lessee.

g) The owners shall pay the land tax/revenue in respect of the lands.

6. **PAYMENT OF STAMP DUTY AND REGISTRATION CHARGES:**
The stamp duty and other registration charges, as applicable for this Agreement of Lease shall be paid by the Lessee.

7. **FORCE MAJEURE:**
It is also agreed and understood between the parties that in case of any mishap due to fire, earthquake, strike, floods, tempest, war, riot, civil war or civil
commotions, mob violence, civil disturbance, act of God or on account of terrorist attack, the Lessor shall not be liable for any loss or damage that may be occasioned to the Lessee/its merchandise.

8. **ADDRESSES FOR CORRESPONDENCE, ETC**

Any notice and/or communications between the Parties shall be deemed to be sufficient, if delivered by hand under acknowledgement or sent by registered post acknowledgement due to the following address or the address that may be intimated in writing to the Lessee by the Lessor from time to time:

**LESSOR’S:**

**LESSEE’S:**

9. **LESSOR’S DUTIES, COVENANTS AND OBLIGATIONS**

a) The Lessor hereby covenants with the Lessee that the Lessee paying regularly the rents hereby reserved and performing and observing all the covenants of the Lessee herein contained, shall be entitled, during the subsistence of this lease to enjoy the Schedule property without let, hindrance or interference from the Lessor or any other person/s claiming through or under him; Still, in the event of the Lessee restrained from enjoying the peaceful possession of the Schedule property or on account of any action by the Government during the period of lease and in the event of dispossession of the Lessee from the Schedule property or any portion thereof forcibly, due to any default of the Lessor, the Lessor shall make good the reasonable loss that may be suffered by the Lessee.

b) The Lessor shall offer necessary support and co-operation to the Lessee in its process to obtain required permission/s, approval/s, clearances, etc., from any Statutory Authority or other Local Bodies for the purpose of obtaining and licence, permissions, etc., for installation of power plant. However, obtaining such permission/s, approval/s, clearances, etc., shall be the sole responsibility of Lessee.
10. **LESSEE'S COVENANT AND OBLIGATIONS**  
The Lessee hereby covenants with the Lessor as under:

(a) The Schedule property shall be utilised for the purpose referred to in Clause (1) above;
(b) The Lessee shall pay the rents (as per Clause (3)) regularly and promptly;

11. **TERMINATION AND RE-ENTRY**  
The Lease shall be determinable under all or any of the following circumstances, namely:-

i) by efflux of time;
ii) in the event of breach by either party of the terms, conditions and covenants hereof;
iii) if the Scheduled Premises or any part thereof is severely damaged or destroyed due to any unforeseen circumstances or civil commotion, act of God, etc., and these damages be not restored to by the LESSOR within a reasonable time or if the demised premises is acquired compulsorily by any authority;
iv) After the expiry of lease period, the Lessee shall handover the land to the Lessor as it was existed previously at the time of this agreement (subject to normal wear and tear).

12. **VARIATION:**  
The Lessor and the Lessee hereto acknowledge that this agreement supersedes all prior communications between them including all oral or written proposals. Any variation, addition and modifications of this agreement between the parties shall be valid only if in writing by the Lessor and Lessees authorized representative.

13. **ARBITRATION:**  
a) Any disputes or differences arising between the Parties hereto as to the effect, interpretation or application any of the clauses of this LEASE AGREEMENT or as to their rights, duties or liabilities thereunder, or as to any act, matter or thing
arising out of, or consequent to, or in connection with this LEASE AGREEMENT shall be referred to and resolved by Arbitration by referring the same for arbitration to any retired District Judge and shall be resolved finally at his arbitration under Arbitration and Conciliation Act 1996 and its Amendments or any other Enactment. The Arbitration proceedings shall be held at and shall be in English/____________ Language.

b) This LEASE AGREEMENT shall be governed by the laws of India. The Courts at ____________ alone shall have the jurisdiction to entertain and or try any dispute arising out of or in connection with or in relation to the terms of this LEASE AGREEMENT.

IN WITNESS WHEREOF the parties hereto have executed these presents in the presence of the witnesses attesting hereunder on the day, month and year mentioned hereinabove.

LESSOR

LESSEE

WITNESSES:
1. 

2.
SCHEDULE PROPERTY

All that piece and parcel of Barren/ Agricultural land measuring ___ Acre ____ Kanal _______ marla ____ Share out of Hadbast No. __________ Khewat No. _______ Khatoni No. _______ Khasra No. ______ Mustil No. _______ Kila No. ______ situated at Village/City ___ Tehsil_District and bounded on the:

(Note: The legal revenue terms to be changes to those prevalent in the State)

East by:
West by :
North by :
South by :
Annexure –II

List of 33 KV substations of UHBVN

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<th>Sr. No.</th>
<th>Name of circle</th>
<th>Name of 33 KV S/Station</th>
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<th>Maximum Demand (In MVA)</th>
<th>Capacity for installation of SPG (MW)</th>
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List of 33 KV substations of DHBVN

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<td>Name of 33 KV S/Stn</td>
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</table>
STANDARD

POWER PURCHASE AGREEMENT FOR

PROCUREMENT OF _____ MW ______ POWER ON LONG TERM BASIS

Between

[Name of Renewable Power Generator]

And

[Name of Distribution Company]

[month and year]
This Power Purchase Agreement is made on the ______ day of ______ of ___________ at
____________

Between

_________________ [name of the Renewable Power Generator], ________________, [details of Renewable Power Generator] (hereinafter referred to as “Renewable Power Generator or SPG”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and permitted assigns) as a Party of the First Part;

And

_______________________[Distribution Company], a company incorporated under the Companies Act 1956, having its registered office at  __________________________(hereinafter referred to as “DISCOM”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its successors and assignees) as a Party of the Second Part;

The SPG and DISCOM are individually referred to as ‘Party’ and collectively referred to as ‘Parties’.

WHEREAS:

A. The Ministry of New and Renewable Energy [MNRE] has launched a scheme for farmers on 8th March 2019 and issued implementation guidelines on ____________.

B. The MNRE has accorded a sanction and allotted a capacity of ______MW to DISCOM for under the said scheme of 8th March 2019.

C. DISCOM had initiated a selection process for procurement of ____ MW of the power generated from the Grid connected ________ Power Project on the terms and conditions contained in the EoI/RfS No._______ dated ___________.

D. The SPG has been selected in the Process for development, generation and supply of electricity from the ____MW ______ Power Project to be established by SPG at ________[location of proposed power plant] and electricity generated to be fed to the ____ [Name and location of 33/11 kV sub-station];

E. DISCOM has issued the Letter of Award No…………….. dated…………in favour of the SPG for development and establishment of the ……………MW ____ Power Project as per the terms and conditions contained in the EoI/RfS.

F. The SPG has furnished the Performance Bank Guarantee in the sum of Rs………..in favour of DISCOM as per the format prescribed by the DISCOM.

G. The SPG has fulfilled the terms and conditions for signing this Power Purchase Agreement as a definitive agreement for establishing the _____ Power Project of……………..MW at …………..for generation and sale of electricity by the SPG to DISCOM at ________33(or 66 or 110)/11 kV.

H. The parties have agreed to execute this Power Purchase Agreement in terms of the EoI/RfS and the Letter of Award in regard to the terms and conditions for establishment of the ______ Power Project at ……., and for generation and supply of electricity by the SPG to DISCOM.
Now therefore, in consideration of the premises and mutual agreements, covenants and conditions set forth herein, it is hereby agreed by and between the Parties as follows:

ARTICLE 1: DEFINITIONS AND INTERPRETATION

1.1 Definitions

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

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>“Act” or “Electricity Act, 2003”</td>
<td>shall mean the Electricity Act, 2003 and include any modifications, amendments and substitution from time to time;</td>
</tr>
<tr>
<td>“Agreement” or “Power Purchase Agreement” or “PPA”</td>
<td>shall mean this Power Purchase Agreement including its recitals and Schedules, amended or modified from time to time in accordance with the terms hereof;</td>
</tr>
<tr>
<td>“Appropriate Commission”</td>
<td>Unless otherwise stated, Appropriate Commission shall be the commission of the state where DISCOM is situated;</td>
</tr>
<tr>
<td>“Bill Dispute Notice”</td>
<td>shall mean the notice issued by a Party raising a Dispute regarding a Monthly Bill or a Supplementary Bill issued by the other Party;</td>
</tr>
<tr>
<td>“Business Day”</td>
<td>shall mean with respect to SPG and DISCOM, a day other than Sunday or a statutory holiday, on which the banks remain open for business in the State;</td>
</tr>
<tr>
<td>“Capacity Utilisation Factor” or “CUF”</td>
<td>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; However for avoidance of any doubt, it is clarified that the CUF shall be calculated on the Contracted Capacity; In any Contract Year, if ‘X’ MWh of energy has been metered out at the Delivery Point for ‘Y’ MW Project capacity, CUF= (X MWh/(Y MW*8766)) X100%;</td>
</tr>
<tr>
<td>“Change in Law”</td>
<td>shall have the meaning ascribed thereto in Article 12 of this Agreement;</td>
</tr>
<tr>
<td>“Commercial Operation Date (COD)”</td>
<td>shall mean the date on which the commissioning certificate is issued upon successful commissioning (as per provisions of this Agreement) of the project;</td>
</tr>
<tr>
<td>“Competent Court of Law”</td>
<td>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;</td>
</tr>
<tr>
<td>“Consents, Clearances and Permits”</td>
<td>shall mean all authorizations, licenses, approvals, registrations, permits, privileges, acknowledgements, agreements, or concessions required to be</td>
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obtained from or provided by any concerned authority for the purpose of setting up of the generation facilities and/or supply of power;

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<th>Term</th>
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<tr>
<td>“Consultation Period”</td>
<td>shall mean the period of ninety (90) days or such other longer period as the Parties may agree, commencing from the date of issuance of a SPG Preliminary Default Notice or DISCOM Preliminary Default Notice as provided in Article 13 of this Agreement, for consultation between the Parties to mitigate the consequence of the relevant event having regard to all the circumstances;</td>
</tr>
<tr>
<td>“Contract Year”</td>
<td>shall mean the period beginning from the Effective Date and ending on the immediately succeeding March 31 and thereafter each period of 12 months beginning on April 1 and ending on March 31 provided that: (i) in the financial year in which the COD would occur, the Contract Year shall end on the date immediately before the COD and a new Contract Year shall commence once again from the COD 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</td>
</tr>
<tr>
<td>“Contracted Capacity”</td>
<td>shall mean …… [Insert capacity] MW contracted with DISCOM for supply by the SPG to DISCOM at the Delivery Point from the _______ Power Project;</td>
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<tr>
<td>“Delivery Point”</td>
<td>“Delivery Point” shall mean the point at the voltage level of 11kV or above of the 33/11 kV Sub-station. Metering shall be done at this interconnection point where the power is injected into the 33/11 kV Sub-station. For interconnection with grid and metering, the SPG shall abide by the relevant and applicable regulations, Grid Code notified by the State Commission and Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended and revised from time to time, or orders passed thereunder by the Appropriate Commission or CEA. All charges and losses related to Transmission of power from project up to Delivery Point as notified by the Appropriate Commission shall be borne by the SPG.</td>
</tr>
<tr>
<td>“Dispute”</td>
<td>shall mean any dispute or difference of any kind between DISCOM and the SPG, in connection with or arising out of this Agreement including but not limited to any issue on the interpretation and scope of the terms of this Agreement as provided in Article 16 of this Agreement;</td>
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<tr>
<td>“Due Date”</td>
<td>Due Date shall mean the forty-fifth (45th) day after a Monthly Bill (including all the relevant documents) or a Supplementary Bill is received in hard copy and duly acknowledged by the DISCOM or, if such day is not a Business Day, the immediately succeeding Business Day, by which date such Monthly Bill or a Supplementary Bill is payable by the DISCOM.</td>
</tr>
<tr>
<td>“Effective Date”</td>
<td>shall have the meaning ascribed thereto in Article 2.1 of this Agreement;</td>
</tr>
<tr>
<td>“Electricity Laws”</td>
<td>shall mean the Electricity Act, 2003 and the rules and regulations made thereunder;</td>
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<td><strong>Term</strong></td>
<td><strong>Definition</strong></td>
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<td><strong>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;</strong></td>
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<tr>
<td><strong>“Event of Default”</strong></td>
<td>shall mean the events as defined in Article 13 of this Agreement;</td>
</tr>
<tr>
<td><strong>“Expiry Date”</strong></td>
<td>Shall mean the date occurring twenty five (25) years from the Commercial Operation Date subject to that the supply of power shall be limited for a period of 25 years from the COD unless extended by the Parties as per this Agreement;</td>
</tr>
<tr>
<td><strong>“Financing Agreements”</strong></td>
<td>shall mean the agreements pursuant to which the SPG 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 DISCOM;</td>
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<tr>
<td><strong>“Force Majeure” or “Force Majeure Event”</strong></td>
<td>shall have the meaning ascribed thereto in Article 11 of this Agreement;</td>
</tr>
<tr>
<td><strong>“Indian Governmental Instrumentality”</strong></td>
<td>shall mean the Government of India, Governments of state of _________ and any ministry, department, board, authority, agency, corporation, commission under the direct or indirect control of Government of India or the above state Government or both, any political sub-division of any of them including any court or Appropriate Commission or tribunal or judicial or quasi-judicial body in India;</td>
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<tr>
<td><strong>“Insurances”</strong></td>
<td>shall mean the insurance cover to be obtained and maintained by the SPG in accordance with Article 8 of this Agreement;</td>
</tr>
<tr>
<td><strong>“Interconnection Facilities”</strong></td>
<td>shall mean the facilities on SPG’s side of the Delivery Point for scheduling, transmitting and metering the electrical output in accordance with this Agreement and which shall include, without limitation, all other transmission lines and associated equipment, transformers, relay and switching equipment and protective devices, safety equipment and RTU, Data Transfer and Acquisition facilities for transmitting data subject to Article 7, the Metering System required for supply of power as per the terms of this Agreement;</td>
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<tr>
<td><strong>“Invoice” or “Bill”</strong></td>
<td>shall mean either a Monthly Bill / Supplementary Bill or a Monthly Invoice/Supplementary Invoice raised by any of the Parties;</td>
</tr>
<tr>
<td><strong>“Late Payment Surcharge”</strong></td>
<td>shall have the meaning ascribed thereto in Article 10.3.3 of this Agreement;</td>
</tr>
<tr>
<td><strong>“Law”</strong></td>
<td>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</td>
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include without limitation all rules, regulations, decisions and orders of the Appropriate Commissions;

| **“Letter of Credit”** or **“L/C”** | shall have the meaning ascribed thereto in Article 10.4 of this Agreement; |
| **“Letter of Award”** or **“LoA”** | shall mean Letter of Award issued by the DISCOM to the SPG for the project; |
| **“MNRE”** | shall mean the Ministry of New and Renewable Energy, Government of India; |
| **“Month”** | shall mean a period of thirty (30) days from (and excluding) the date of the event, where applicable, else a calendar month; |
| **“Party” and “Parties”** | shall have the meaning ascribed thereto in the recital to this Agreement; |
| **“Payment Security Mechanism”** | shall have the meaning ascribed thereto in Article 10.4 of this Agreement; |
| **“Power Project” or “Project”** | shall mean the ______ power generation facility of Contracted Capacity of ………..[Insert capacity] MW, located at ………………, [Insert name of the District and State] having a separate control system, metering and separate points of injection into the grid at Delivery point of 33/11 kV substation. The Project shall include all units and auxiliaries such as water supply, treatment or storage facilities, bay(s) for transmission system in the switchyard, dedicated transmission line up to the Delivery Point and all the other assets, buildings/structures, equipment, plant and machinery, facilities and related assets required for the efficient and economic operation of the power generation facility, whether completed or at any stage of development and construction or intended to be developed and constructed for the purpose of supply of power as per this Agreement; |
| **“Preliminary Default Notice”** | shall have the meaning ascribed thereto in Article 13 of this Agreement; |
| **“Project Capacity”** | shall mean the maximum AC capacity of the Project at the point of injection on which the Power Purchase Agreement has been signed. |
| **“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 the physical conditions at the site of the Power Project

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<td>“Rebate”</td>
<td>shall have the same meaning as ascribed thereto in Article 10.3.5 of this Agreement;</td>
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<tr>
<td>“Rupees”, ”Rs.”, ₹</td>
<td>shall mean Indian rupees, the lawful currency of India;</td>
</tr>
<tr>
<td>“Scheduled Commissioning Date” or “SCD” of the Project</td>
<td>Shall mean ……………… [Insert Date that is nine (9) Months from the Date of issuance of LoA by the DISCOM to the SPG];</td>
</tr>
<tr>
<td>“Tariff”</td>
<td>Shall have the same meaning as provided for in Article 9 of this Agreement;</td>
</tr>
<tr>
<td>“Tariff Payment”</td>
<td>shall mean the payments to be made under Monthly Bills as referred to in Article 10 and the relevant Supplementary Bills;</td>
</tr>
<tr>
<td>“Termination Notice”</td>
<td>shall mean the notice given by either Parties for termination of this Agreement in accordance with Article 13 of this Agreement;</td>
</tr>
<tr>
<td>“Term of Agreement”</td>
<td>shall have the meaning ascribed thereto in Article 2 of this Agreement;</td>
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ARTICLE 2: TERM OF AGREEMENT

2.1 Effective Date

2.1.1 This Agreement shall come into effect from __________ and such date shall be referred to as the Effective Date.

2.2 Term of Agreement

2.2.1 Subject to Article 2.3 and 2.4 of this Agreement, this Agreement shall be valid for a term from the Effective Date until the Expiry Date. This Agreement may be extended for a further period at least one hundred eighty (180) days prior to the Expiry Date, on mutually agreed terms and conditions.

2.2.2 The SPG is free to operate their plants beyond the Expiry Date if other conditions like land lease / Right to Use of Land (as applicable), permits, approvals and clearances etc. allow. In such case unless otherwise agreed by the DISCOM, DISCOM shall not be obligated to procure power beyond the Expiry Date.

2.3 Early Termination

2.3.1 This Agreement shall terminate before the Expiry Date if either DISCOM or SPG terminates the Agreement, pursuant to Article 13 of this Agreement.
2.4 **Survival**

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

**ARTICLE 3: CONDITIONS SUBSEQUENT**

3.1 The SPG agrees and undertakes to make Project Financing Arrangements for its Project and shall provide necessary documents to DISCOM in this regard within six Months from the Date of issue of LoA by DISCOM for the project.

**ARTICLE 4: CONSTRUCTION & DEVELOPMENT OF THE PROJECT**

4.1 **SPG’s Obligations**

4.1.1 The SPG undertakes to be responsible, at SPG’s own cost and risk, for:

a) The SPG shall be solely responsible and make arrangements for Land & associated infrastructure for development of the Project and for Connectivity with the 33/11 kV sub-station for confirming the evacuation of power by the Scheduled Commissioning date or COD, whichever is earlier, and all clearances related thereto;

   The SPG shall furnish the necessary documents to establish possession in the name of the Project Developer of the required land/ Lease Agreement;

b) obtaining all Consents, Clearances and Permits as required and maintaining all documents.

c) Designing, constructing, erecting, commissioning, completing and testing the Power Project in accordance with the applicable Law, the Grid Code, the terms and conditions of this Agreement and Prudent Utility Practices.

d) the commencement of supply of power up to the Contracted Capacity to DISCOM no later than the Scheduled Commissioning Date and continuance of the supply of power throughout the term of the Agreement;

e) Connecting the Power Project switchyard with the Interconnection Facilities at the Delivery Point. The SPG shall make adequate arrangements to connect the Power Project switchyard with the Interconnection Facilities at Interconnection / Metering / Delivery Point.

f) owning the Power Project throughout the Term of Agreement free and clear of encumbrances, except those expressly permitted under Article 15;

f) fulfilling all obligations undertaken by the SPG under this Agreement.

g) The SPG shall be responsible to for directly coordinating and dealing with the DISCOM, and other authorities in all respects in regard to declaration of availability, scheduling and dispatch of Power
and due compliance with deviation and settlement mechanism and the applicable Grid code/State Regulations.

4.2 **Purchase and sale of Contracted Capacity**

4.2.1 Subject to the terms and conditions of this Agreement, the SPG undertakes to sell to DISCOM and DISCOM undertakes to pay Tariff for all the energy supplied at the Delivery Point corresponding to the Contracted Capacity.

4.3 **Right to Contracted Capacity & Energy**

4.3.1 DISCOM, in any Contract Year shall not be obliged to purchase any additional energy from the SPG beyond the contract capacity. If for any Contract Year except for the first year of operation, it is found that the SPG has not been able to generate minimum energy of ……Million kWh (MU) till the end of 10 years from the COD and ………….. Million kWh (MU) for the rest of the Term of the Agreement, on account of reasons solely attributable to the SPG, the non-compliance by SPG shall make the SPG liable to pay the compensation. For the first year of operation, the above limits shall be considered on pro-rata basis. The lower limit will, however be relaxable by DISCOM to the extent of grid non-availability for evacuation which is beyond the control of the SPG. This compensation shall be applied to the amount of shortfall in generation during the Contract Year. The amount of such penalty shall be as determined by the Appropriate Commission, and such penalty shall ensure that the DISCOM is offset for all potential costs associated with low generation and supply of power under the PPA. However, the minimum compensation payable to DISCOM by the SPG shall be 25% (twenty-five percent) of the cost of this shortfall in energy terms, calculated at PPA tariff. This compensation shall not be applicable in events of Force Majeure identified under PPA.

4.3.2 In case at any point of time, the peak of capacity reached is higher than the contracted capacity and causes disturbance in the system at the point where power is injected, the SPG will have to forego the excess generation and reduce the output to the contract capacity and shall also have to pay the penalty/charges (if applicable) as per applicable regulations.

4.4 **Extensions of Time**

4.4.1 In the event that the SPG is prevented from performing its obligations under Article 4.1 by the Scheduled Commissioning Date due to:

   a) any DISCOM Event of Default; or

   b) Force Majeure Events affecting DISCOM, or

   c) Force Majeure Events affecting the SPG,

the Scheduled Commissioning Date and the Expiry Date shall be deferred, subject to Article 4.4.5, for a reasonable period but not less than ‘day for day’ basis, to permit the SPG or DISCOM through the use of due diligence, to overcome the effects of the Force Majeure Events affecting the SPG or DISCOM, or till such time such Event of Default is rectified by DISCOM.

4.4.2 In case of extension due to reasons specified in Article 4.4.1(b) and (c), and if such Force Majeure Event continues even after a maximum period of three (3) months, any of the Parties may choose to terminate the Agreement as per the provisions of Article 13.5. In case neither party terminates the agreement under this clause, the agreement shall stand terminated on the expiry of
twelve (12) months of the continuation of the Force majeure event unless the parties mutually agree to extend the agreement for the further period.

4.4.3 If the Parties have not agreed, within thirty (30) days after the affected Party’s performance has ceased to be affected by the relevant circumstance, on the time period by which the Scheduled Commissioning Date or the Expiry Date should be deferred, any Party may raise the Dispute to be resolved in accordance with Article 16.

4.4.4 As a result of such extension, the newly determined Scheduled Commissioning Date and newly determined Expiry Date shall be deemed to be the Scheduled Commissioning Date and the Expiry Date for the purposes of this Agreement.

4.4.5 Notwithstanding anything to the contrary contained in this Agreement, any extension of the Scheduled Commissioning Date arising due to any reason envisaged in this Agreement shall not be allowed beyond the date pursuant to Article 4.5.2.

4.4.6 Delay in commissioning of the project beyond the scheduled commissioning date for reasons other than those specified in Article 4.4.1 shall be an event of default on part of the SPG and shall be subject to the consequences specified in the Article 4.5.

4.5 **Liquidated Damages not amounting to penalty for delay in Commissioning**

4.5.1 If the SPG is unable to commission the Project by the Scheduled Commissioning Date other than for the reasons specified in Article 4.4.1, the SPG shall pay to DISCOM, damages for the delay in such commissioning and making the Contracted Capacity available for dispatch by the Scheduled Commissioning Date as per the following:

Delay beyond the Scheduled Commissioning Date upto (& including) the date as on nine months from the Date of issue of LoA: The total Performance Bank Guarantee amount shall be encashed on per day basis and proportionate to the balance capacity not commissioned.

4.5.2 The maximum time period allowed for commissioning of the full Project Capacity with encashment of Performance Bank Guarantee shall be limited to 11 Months from the Date of issue of LoA. In case, the Commissioning of the Project is delayed beyond 11 Months from the Date of issue of LoA, it shall be considered as an SPG Event of Default and provisions of Article 13 shall apply and the Contracted Capacity shall stand reduced / amended to the Project Capacity Commissioned within 11 Months of the Date of issue of LoA and the PPA for the balance Capacity will stand terminated and shall be reduced from the project capacity.

4.5.3 The SPG further acknowledge that the amount of the liquidated damages fixed is genuine and reasonable pre-estimate of the damages that may be suffered by DISCOM.

4.6 **Acceptance/Performance Test**

4.6.1 Prior to synchronization of the Power Project, the SPG shall be required to get the Project certified for the requisite acceptance/performance test as may be laid down by respective authorities.

4.7 **Third Party Verification**

4.7.1 The SPG shall be further required to provide entry to the site of the Power Project free of all encumbrances at all times during the Term of the Agreement to DISCOM and a third Party nominated by any Indian Governmental Instrumentality for inspection and verification of the works being carried out by the SPG at the site of the Power Project.
4.7.2 The third party may verify the construction works/operation of the Power Project being carried out by the SPG and if it is found that the construction works/operation of the Power Project is not as per the Prudent Utility Practices, it may seek clarifications from SPG or require the works to be stopped or to comply with the instructions of such third party.

4.8 Breach of Obligations

4.8.1 The Parties herein agree that during the subsistence of this Agreement, subject to DISCOM being in compliance of its obligations & undertakings under this Agreement, the SPG would have no right to negotiate or enter into any dialogue with any third party for the sale of Contracted Capacity of power which is the subject matter of this Agreement. It is the specific understanding between the Parties that such bar will apply throughout the entire term of this Agreement.

4.9 Generation compensation for Off-take constraints

4.9.1 Generation Compensation in offtake constraints due to Grid Unavailability: During the operation of the plant, there can be some periods where the Project can generate power but due to temporary transmission unavailability, the power is not evacuated, for reasons not attributable to the SPG. In such cases, subject to the submission of documentary evidences from the competent authority, the generation compensation shall be restricted to the following and there shall be no other claim, directly or indirectly against DISCOM:

<table>
<thead>
<tr>
<th>Duration of Grid unavailability</th>
<th>Provision for Generation Compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grid unavailability in a contract year as defined in the PPA: (only period from 8 am to 6 pm to be counted):</td>
<td>Generation Loss = [(Average Generation per hour during the Contract Year) \times (number of hours of grid unavailability during the Contract Year)]</td>
</tr>
<tr>
<td></td>
<td>Where, Average Generation per hour during the Contract Year (kWh) = Total generation in the Contract Year (kWh) \div Total hours of generation in the Contract Year.</td>
</tr>
</tbody>
</table>

The excess generation by the SPG equal to this generation loss shall be procured by DISCOM at the PPA tariff so as to offset this loss in the succeeding 3 (three) Contract Years.

4.9.2 Offtake constraints due to Backdown: The SPG and DISCOM shall follow the forecasting and scheduling process as per the regulations in this regard by the Appropriate Commission. In the eventuality of backdown, subject to the submission of documentary evidences from the competent authority, the SPG shall be eligible for a minimum generation compensation, from DISCOM, restricted to the following and there shall be no other claim, directly or indirectly against DISCOM:

<table>
<thead>
<tr>
<th>Duration of Backdown</th>
<th>Provision for Generation Compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hours of Backdown during a monthly billing cycle.</td>
<td>Minimum Generation Compensation = 50% of [(Average Generation per hour during the month) \times (number of backdown hours during the month)] \times PPA tariff</td>
</tr>
<tr>
<td></td>
<td>Where, Average Generation per hour during the month (kWh) = Total generation in the month (kWh) \div Total hours of generation in the month</td>
</tr>
</tbody>
</table>

The SPG shall not be eligible for any compensation in case the Backdown is on account of events like consideration of grid security or safety of any equipment or personnel or other such conditions.
The Generation Compensation shall be paid as part of the energy bill for the successive month after JMR.

ARTICLE 5: SYNCHRONISATION, COMMISSIONING AND COMMERCIAL OPERATION

5.1  Synchronization, Commissioning and Commercial Operation

5.1.1 The SPG shall give the DISCOM at least thirty (30) days’ advanced preliminary written notice and at least fifteen (15) days’ advanced final written notice, of the date on which it intends to synchronize the Power Project to the Grid System.

5.1.2 Subject to Article 5.1.1, the Power Project may be synchronized by the SPG to the Grid System when it meets all the connection conditions prescribed in applicable Grid Code then in effect and otherwise meets all other Indian legal requirements for synchronization to the Grid System.

5.1.3 The synchronization equipment and all necessary arrangements / equipment including RTU for scheduling of power generated from the Project and transmission of data to the concerned authority as per applicable regulation shall be installed by the SPG at its generation facility of the Power Project at its own cost. The SPG shall synchronize its system with the Grid System only after the approval of synchronization scheme is granted by the head of the concerned substation/ and checking/verification is made by the concerned authorities of the DISCOM.

5.1.4 The SPG 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. In addition, the SPG will inject in-firm power to grid time to time to carry out operational/ functional test prior to commercial operation. For avoidance of doubt, it is clarified that Synchronization / Connectivity of the Project with the grid shall not to be considered as Commissioning of the Project.

5.1.5 The SPG shall commission the Project within nine (9) Months from the Date of issue of LoA.

Declaration of COD shall only be done upon the successful visit by the Commissioning Committee.

5.1.6 The Parties agree that for the purpose of commencement of the supply of electricity by SPG to DISCOM, liquidated damages for delay etc., the Scheduled Commissioning Date as defined in this Agreement shall be the relevant date.

ARTICLE 6: DISPATCH AND SCHEDULING

6.1  Dispatch and Scheduling

6.1.1 The SPG shall be required to schedule its power as per the applicable regulations of SERC /SLDC or any other competent agency and same being recognized by the SLDC or any other competent authority / agency as per applicable regulation/ law / direction and maintain compliance to the applicable Codes/ Grid Code requirements and directions, if any, as specified by concerned SLDC from time to time. Any deviation from the Schedule will attract the provisions of applicable regulation / guidelines / directions and any financial implication on account of this shall be on the account of the SPG.

6.1.2 The SPG shall be responsible for directly coordinating and dealing with the DISCOM, State Load Dispatch Centers, and other authorities in all respects in regard to declaration of availability, scheduling and despatch of Power and due compliance with deviation and settlement mechanism and the applicable Grid code Regulations.
6.1.3 The SPG shall be responsible for any deviation from scheduling and for any resultant liabilities on account of charges for deviation as per applicable regulations. UI charges on this account shall be directly paid by the SPG.

6.1.4 Auxiliary power consumption will be treated as per the concerned state regulations.

**ARTICLE 7: METERING**

7.1 **Meters**

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

7.1.2 The SPG shall bear all costs pertaining to installation, testing, calibration, maintenance, renewal and repair of meters at SPG’s side of Delivery Point.

7.1.3 In addition to ensuring compliance of the applicable codes, the SPG shall install Main & Check meters at the Delivery Point, along with Stand-by meter(s) as per the applicable regulations of the State where the Project is located.

7.2 **Reporting of Metered Data and Parameters**

7.2.1 The grid connected renewable power plants will install necessary equipment for regular monitoring of required data and simultaneously for monitoring of the electric power generated from the Project.

7.2.2 Online arrangement would have to be made by the SPG for submission of above data regularly for the entire period of this Power Purchase Agreement to the DISCOM, the MNRE and concerned agency as per applicable regulation / directions.

7.2.3 Reports on above parameters on monthly basis (or as required by regulation / guidelines) shall be submitted by the SPG to Ministry of New and Renewable Energy/National Institute of Solar Energy through DISCOM for entire period of PPA.

**ARTICLE 8: INSURANCES**

8.1 **Insurance**

8.1.1 The SPG shall effect and maintain or cause to be effected and maintained, at its own cost and expense, throughout the Term of PPA, Insurances against such risks to keep the Project in good condition and shall take Industrial All Risk insurance policy covering risks against any loss or damage, with such deductibles and with such endorsements and co-insured(s), which the Prudent Utility Practices would ordinarily merit maintenance of and as required under the Financing Agreements, and under the applicable laws.

8.2 **Application of Insurance Proceeds**

8.2.1 In case of the Project not being implemented through Financing Agreement(s), save as expressly provided in this Agreement or the Insurances, the proceeds of any insurance claim made due to loss or damage to the Power Project or any part of the Power Project shall be first applied to reinstatement, replacement or renewal of such loss or damage.

In case of the Project being financed through Financing Agreement(s), save as expressly provided in this Agreement or the Insurances, the proceeds of any insurance claim made due to loss or damage to the Power Project or any part of the Power Project shall be applied as per such Financing Agreements.
8.2.2 If a Force Majeure Event renders the Power Project no longer economically and technically viable and the insurers under the Insurances make payment on a “total loss” or equivalent basis, DISCOM shall have claim on such proceeds of such Insurance limited to outstanding dues of DISCOM against SPG.

8.3 Effect on liability of DISCOM

8.3.1 Notwithstanding any liability or obligation that may arise under this Agreement, any loss, damage, liability, payment, obligation or expense which is insured or not or for which the SPG can claim compensation, under any Insurance shall not be charged to or payable by DISCOM. It is for the SPG to ensure that appropriate insurance coverage is taken for payment by the insurer for the entire loss and there is no under insurance or short adjustment etc.

ARTICLE 9: APPLICABLE TARIFF

9.1 The SPG shall be entitled to receive the Tariff of Rs. …………./ kWh, fixed for the entire term of this Agreement, with effect from the COD, for the power sold to the DISCOM as reflected in the Energy Accounts.

ARTICLE 10: BILLING AND PAYMENT

10.1 General

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

10.1.2 The SPG shall be required to make arrangements and payments for import of energy (if any) as per applicable regulations.

10.2 Delivery and Content of Monthly Bills/Supplementary Bills

10.2.1 The SPG shall issue to DISCOM hard copy of a signed Monthly Bill for the immediately preceding Month based on the JMR/Energy Account along with all relevant documents (payments made by SPG for drawl of power, payment of reactive energy charges, Metering charges or any other charges as per regulations of SERC/SLDC, if applicable.)

Each Monthly Bill shall include all charges as per this Agreement for the energy supplied for the relevant Month based on JMR/Energy Accounts. The Monthly Bill amount shall be the product of the energy as per Energy Accounts and the Applicable Tariff. Energy drawn from the grid will be regulated as per the regulations of respective State the Project is located in.

10.3 Payment of Monthly Bills

10.3.1 DISCOM shall pay the amount payable under the Monthly Bill by the Due Date to such account of the SPG, as shall have been previously notified by the SPG.

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

i) deductions required by the Law; and
ii) Amount claimed by DISCOM, if any, from the SPG, will be adjusted from the monthly energy payment.

The SPG shall open a bank account (the “SPG’s Designated Account”) for all Tariff Payments to be made by DISCOM to the SPG, and notify DISCOM of the details of such account at least sixty (60) Days before the dispatch of the first Monthly Bill.

10.3.3 Late Payment Surcharge

In the event of delay in payment of a Monthly Bill by DISCOM beyond the due date, a late payment surcharge shall be payable to the SPG at the rate of 1.25% per month on the outstanding amount calculated on a day to day basis. The Late Payment Surcharge shall be claimed by the SPG through the Supplementary Bill.

10.3.5 Rebate

For payment of any Bill on or before Due Date, the following Rebate shall be paid by the SPG to DISCOM in the following manner and the SPG shall not raise any objections to the payments made under this article.

a) A Rebate of 2% shall be payable to the DISCOM for the payments made within a period of seven clear working days of the presentation of hard copy of Bill along with required supporting documents at DISCOM office.

b) Any payments made after seven clear working days of the date of presentation of hard copy of the Bill along with the required supporting documents at DISCOM office up to the Due Date shall be allowed a rebate of 1%.

c) For the above purpose, the date of presentation of Bill shall be the next Business Day of delivery of physical copy of the Bill at DISCOM.

d) No Rebate shall be payable on the Bills raised on account of Change in Law relating to taxes, duties, cess etc. and on Supplementary Bill.

For the above purpose date of presentation of bill shall be the same day of delivery in hard copy.

However, for consideration of rebate, next business day shall be considered.

10.4 Payment Security Mechanism

Letter of Credit (LC):

10.4.1 DISCOM shall provide to the SPG, 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 SPG in accordance with this Article.

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

i) for the first Contract Year, equal to the estimated average monthly billing;

ii) for each subsequent Contract Year, equal to the average of the monthly billing of the previous Contract Year.
10.4.3 Provided that the SPG shall not draw upon such Letter of Credit prior to the Due Date of the relevant Monthly Bill and/or Supplementary Bill, and shall not make more than one drawal in a Month.

10.4.4 Provided further that if at any time, such Letter of Credit amount falls short of the amount specified in Article 10.4.2 due to any reason whatsoever, DISCOM shall restore such shortfall within fifteen (15) days.

10.4.5 DISCOM shall cause the scheduled bank issuing the Letter of Credit to intimate the SPG, in writing regarding establishing of such irrevocable Letter of Credit.

10.4.6 DISCOM shall ensure that the Letter of Credit shall be renewed not later than its expiry.

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

10.4.8 If DISCOM fails to pay undisputed Monthly Bill or Supplementary Bill or a part thereof within and including the Due Date, then, subject to Article 10.4.6 & 10.5.2, the SPG may draw upon the Letter of Credit, and accordingly the bank shall pay without any reference or instructions from DISCOM, an amount equal to such Monthly Bill or Supplementary Bill or part thereof, in accordance with Article 10.4.3 above, by presenting to the scheduled bank issuing the Letter of Credit, the following documents:

i) a copy of the Monthly Bill or Supplementary Bill which has remained unpaid to SPG and;

ii) a certificate from the SPG to the effect that the bill at item (i) above, or specified part thereof, is in accordance with the Agreement and has remained unpaid beyond the Due Date;

10.5 Disputed Bill

10.5.1 If the DISCOM does not dispute a Monthly Bill or a Supplementary Bill raised by the SPG within fifteen (15) days of receiving such Bill shall be taken as conclusive.

10.5.2 If the DISCOM disputes the amount payable under a Monthly Bill or a Supplementary Bill, as the case may be, it shall pay undisputed amount of the invoice amount and it shall within fifteen (15) days of receiving such Bill, issue a notice (the "Bill Dispute Notice") to the invoicing Party setting out:

i) the details of the disputed amount;

ii) its estimate of what the correct amount should be; and iii) all written material in support of its claim.

10.5.3 If the SPG agrees to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.5.2, the SPG shall revise such Bill and present along with the next Monthly Bill. In such a case excess amount shall be refunded along with interest at the same rate as Late Payment Surcharge, which shall be applied from the date on which such excess payment was made by the disputing Party to the invoicing Party and up to and including the date on which such payment has been received as refund.

10.5.4 If the SPG does not agree to the claim raised in the Bill Dispute Notice issued pursuant to Article 10.5.2, it shall, within fifteen (15) days of receiving the Bill Dispute Notice, furnish a notice (Bill Disagreement Notice) to the DISCOM providing:
i) reasons for its disagreement;

ii) its estimate of what the correct amount should be; and iii) all written material in support of its counter-claim.

10.5.5 Upon receipt of the Bill Disagreement Notice by the DISCOM under Article 10.5.4, authorized representative(s) or a director of the board of directors/ member of board of the DISCOM and SPG shall meet and make best endeavours to amicably resolve such dispute within fifteen (15) days of receipt of the Bill Disagreement Notice.

10.5.6 If the Parties do not amicably resolve the Dispute within fifteen (15) days of receipt of Bill Disagreement Notice pursuant to Article 10.5.4, the matter shall be referred to Dispute resolution in accordance with Article 16.

10.5.7 For the avoidance of doubt, it is clarified the despite a Dispute regarding an invoice, DISCOM shall, without prejudice to its right to Dispute, be under an obligation to make payment of undisputed amount of the invoice amount in the Monthly Bill.

10.6 Quarterly and Annual Reconciliation

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

10.6.2 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 SPG and DISCOM shall jointly sign such reconciliation statement. Within fifteen (15) days of signing of a reconciliation statement, the SPG shall make appropriate adjustments in the next Monthly Bill. Late Payment Surcharge/ interest shall be payable in such a case from the date on which such payment had been made to the invoicing Party or the date on which any payment was originally due, as may be applicable. Any Dispute with regard to the above reconciliation shall be dealt with in accordance with the provisions of Article 16.

10.7 Payment of Supplementary Bill

10.7.1 SPG may raise a ("Supplementary Bill") for payment on account of:

i) Adjustments required by the Energy Accounts (if applicable); or

ii) Change in Law as provided in Article 12

And such Supplementary Bill shall be paid by the other Party.

10.7.2 DISCOM shall remit all amounts due under a Supplementary Bill raised by the SPG to the SPG’s Designated Account by the Due Date, except open access charges, RLDC or scheduling charges and transmission charges (if applicable). For Supplementary Bill on account of adjustment required by energy account, Rebate as applicable to Monthly Bills pursuant to Article 10.3.5 shall equally apply. No surcharge will be applicable other than that on the monthly energy payment and associated debit and credit note.
10.7.3 In the event of delay in payment of a Supplementary Bill by either Party beyond its Due Date, a Late Payment Surcharge shall be payable at the same terms applicable to the Monthly Bill in Article 10.3.3.

ARTICLE 11: FORCE MAJEURE

11.1 Definitions

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

11.2 Affected Party

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

11.3 Force Majeure

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

a) Act of God, including, but not limited to lightning, drought, fire and explosion (to the extent originating from a source external to the site), earthquake, volcanic eruption, landslide, flood, cyclone, typhoon or tornado if and only if it is declared / notified by the competent state / central authority / agency (as applicable);

b) any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action if and only if it is declared / notified by the competent state / central authority / agency (as applicable); or

c) radioactive contamination or ionising radiation originating from a source in India or resulting from another Force Majeure Event mentioned above excluding circumstances where the source or cause of contamination or radiation is brought or has been brought into or near the Power Project by the Affected Party or those employed or engaged by the Affected Party.

11.4 Force Majeure Exclusions

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

a. Unavailability, late delivery, or changes in cost of the plant, machinery, equipment, materials, spare parts or consumables for the Power Project;

b. Delay in the performance of any contractor, sub-contractor or their agents;

c. Non-performance resulting from normal wear and tear typically experienced in power generation materials and equipment;
d. Strikes at the facilities of the Affected Party;

e. Insufficiency of finances or funds or the agreement becoming onerous to perform; and

f. Non-performance caused by, or connected with, the Affected Party’s:
   i. Negligent or intentional acts, errors or omissions;
   ii. Failure to comply with an Indian Law; or
   iii. Breach of, or default under this Agreement.

11.5 Notification of Force Majeure Event

11.5.1 The Affected Party shall give notice to the other Party of any event of Force Majeure as soon as reasonably practicable, but not later than seven (7) days after the date on which such Party knew or should reasonably have known of the commencement of the event of Force Majeure. If an event of Force Majeure results in a breakdown of communications rendering it unreasonable to give notice within the applicable time limit specified herein, then the Party claiming Force Majeure shall give such notice as soon as reasonably practicable after reinstatement of communications, but not later than one (1) day after such reinstatement.

11.5.2 Provided that such notice shall be a pre-condition to the Affected Party’s entitlement to claim relief under this Agreement. Such notice shall include full particulars of the event of Force Majeure, its effects on the Party claiming relief and the remedial measures proposed. The Affected Party shall give the other Party regular (and not less than monthly) reports on the progress of those remedial measures and such other information as the other Party may reasonably request about the Force Majeure Event.

11.5.3 The Affected Party shall give notice to the other Party of (i) the cessation of the relevant event of Force Majeure; and (ii) the cessation of the effects of such event of Force Majeure on the performance of its rights or obligations under this Agreement, as soon as practicable after becoming aware of each of these cessations.

11.6 Duty to Perform and Duty to Mitigate

11.6.1 To the extent not prevented by a Force Majeure Event pursuant to Article 11.3, the Affected Party shall continue to perform its obligations pursuant to this Agreement. The Affected Party shall use its reasonable efforts to mitigate the effect of any Force Majeure Event as soon as practicable.

11.7 Available Relief for a Force Majeure Event

11.7.1 Subject to this Article 11:

   (a) no Party shall be in breach of its obligations pursuant to this Agreement except to the extent that the performance of its obligations was prevented, hindered or delayed due to a Force Majeure Event;

   (b) every Party shall be entitled to claim relief in relation to a Force Majeure Event in regard to its obligations;
(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.

ARTICLE 12: CHANGE IN LAW

12.1 Definitions

In this Article 12, the term Change in Law shall refer to the occurrence of any of the following events pertaining to this project only 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 SPG; or (v) any change in the rates of any Taxes including any duties and cess or Introduction of any new tax made applicable for setting up the power project

and supply of power from the Power project by the SPG Which have a direct effect on the Project. However, Change in Law shall not include (i) any change in taxes on corporate income or (ii) any change in any withholding tax on income or dividends distributed to the shareholders of the SPG, or (iii) any change on account of regulatory measures by the Appropriate Commission.

In the event a Change in Law results in any adverse financial loss/gain to the SPG then, in order to ensure that the SPG 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 SPG/ DISCOM 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 Appropriate Commission.

In the event of any decrease in the recurring/nonrecurring expenditure by the SPG or any income to the SPG on account of any of the events as indicated above, SPG shall file an application to the Appropriate Commission no later than sixty (60) days from the occurrence of such event, for seeking approval of Change in Law. In the event of the SPG failing to comply with the above requirement, in case of any gain to the SPG, DISCOM shall withhold the monthly tariff payments on immediate basis, until compliance of the above requirement by the SPG.

12.2 Relief for Change in Law

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

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

ARTICLE 13: EVENTS OF DEFAULT AND TERMINATION
13.1 **SPG Event of Default**

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

(i) the failure to commence supply of power to DISCOM up to the Contracted Capacity, by the end of the period specified in Article 4, or failure to continue supply of Contracted Capacity to DISCOM after Commercial Operation Date throughout the term of this Agreement, or if

a) the SPG assigns, mortgages or charges or purports to assign, mortgage or charge any of its assets or rights related to the Power Project in contravention of the provisions of this Agreement; or

b) the SPG transfers or novates any of its rights and/or obligations under this agreement, in a manner contrary to the provisions of this Agreement; except where such transfer

• is in pursuance of a Law; and does not affect the ability of the transferee to perform, and such transferee has the financial capability to perform, its obligations under this Agreement or

• is to a transferee who assumes such obligations under this Agreement and the Agreement remains effective with respect to the transferee;

(ii) if (a) the SPG becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of thirty (30) days, or (b) any winding up or bankruptcy or insolvency order is passed against the SPG, or (c) the SPG goes into liquidation or dissolution or has a receiver or any similar officer appointed over all or substantially all of its assets or official liquidator is appointed to manage its affairs, pursuant to Law, provided that a dissolution or liquidation of the SPG will not be a SPG Event of Default if such dissolution or liquidation is for the purpose of a merger, consolidation or reorganization and where the resulting company retains creditworthiness similar to the SPG and expressly assumes all obligations of the SPG under this Agreement and is in a position to perform them; or

(iii) the SPG repudiates this Agreement and does not rectify such breach within a period of thirty (30) days from a notice from DISCOM in this regard; or

(iv) except where due to any DISCOM’s failure to comply with its material obligations, the SPG is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the SPG within thirty (30) days of receipt of first notice in this regard given by DISCOM.

(v) occurrence of any other event which is specified in this Agreement to be a material breach/ default of the SPG.

(vi) except where due to any DISCOM’s failure to comply with its material obligations, the SPG is in breach of any of its material obligations pursuant to this Agreement, and such material breach is not rectified by the SPG within thirty (30) days of receipt of first notice in this regard given by DISCOM.

13.2 **DISCOM Event of Default**
13.2.1 The occurrence and the continuation of any of the following events, unless any such event occurs as a result of a Force Majeure Event or a breach by the SPG of its obligations under this Agreement, shall constitute the Event of Default on the part of defaulting DISCOM:

(i) DISCOM fails to pay (with respect to a Monthly Bill or a Supplementary Bill), subject to Article 10.5, for a period of ninety (90) days after the Due Date and the SPG is unable to recover the amount outstanding to the SPG through the Letter of Credit,

(ii) DISCOM repudiates this Agreement and does not rectify such breach even within a period of sixty (60) days from a notice from the SPG in this regard; or

(iii) except where due to any SPG’s failure to comply with its obligations, DISCOM is in material breach of any of its obligations pursuant to this Agreement, and such material breach is not rectified by DISCOM within sixty (60) days of receipt of notice in this regard from the SPG to DISCOM; or if

• DISCOM becomes voluntarily or involuntarily the subject of any bankruptcy or insolvency or winding up proceedings and such proceedings remain uncontested for a period of sixty (60) days, or

• any winding up or bankruptcy or insolvency order is passed against DISCOM, or

• DISCOM goes into liquidation or dissolution or a receiver or any similar officer is appointed over all or substantially all of its assets or official liquidator is appointed to manage its affairs, pursuant to Law, provided that it shall not constitute a DISCOM Event of Default, where such dissolution or liquidation of DISCOM or DISCOM is for the purpose of a merger, consolidation or reorganization and where the resulting entity has the financial standing to perform its obligations under this Agreement and has creditworthiness similar to DISCOM and expressly assumes all obligations of DISCOM and is in a position to perform them; or;

(iv) Occurrence of any other event which is specified in this Agreement to be a material breach or default of DISCOM.

13.3 Procedure for cases of SPG Event of Default

13.3.1 Upon the occurrence and continuation of any SPG Event of Default under Article 13.1, DISCOM shall have the right to deliver to the SPG, with a copy to the representative of the lenders to the SPG with whom the SPG has executed the Financing Agreements, a notice stating its intention to terminate this Agreement (DISCOM Preliminary Default Notice), which shall specify in reasonable detail, the circumstances giving rise to the issue of such notice.

13.3.2 Following the issue of a DISCOM Preliminary Default Notice, the Consultation Period of ninety (90) days or such longer period as the Parties may agree, shall apply and it shall be the responsibility of the Parties to discuss as to what steps shall be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.

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

13.3.4 Within a period of seven (7) days following the expiry of the Consultation Period unless the Parties shall have otherwise agreed to the contrary or the SPG Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, DISCOM may terminate this Agreement by giving a written Termination Notice of sixty (60) days to the SPG.

13.3.5 Subject to the terms of this Agreement, upon occurrence of a SPG Event of Default under this Agreement, the lenders in concurrence with the DISCOM, may exercise their rights, if any, under
Financing Agreements, to seek substitution of the SPG by a selectee for the residual period of the Agreement, for the purpose of securing the payments of the total debt amount from the SPG and performing the obligations of the SPG. However, in the event the lenders are unable to substitute the defaulting SPG within the stipulated period, DISCOM may terminate the PPA and may acquire the Project assets for an amount equivalent to 90% of the debt due or less as mutually agreed, failing which, the lenders may exercise their mortgage rights and liquidate the Project assets.

Provided that any substitution under this Agreement can only be made with the prior consent of DISCOM including the condition that the selectee meets the eligibility requirements of Request for Selection (RfS) issued by DISCOM and accepts the terms and conditions of this Agreement.

13.3.6 The lenders in concurrence with DISCOM, may seek to exercise right of substitution under Article 13.3.5 by an amendment or novation of the PPA in favour of the selectee. The SPG shall cooperate with DISCOM to carry out such substitution and shall have the duty and obligation to continue to operate the Power Project in accordance with this PPA till such time as the substitution is finalized. In the event of Change in Shareholding/Substitution of Promoters triggered by the Financial Institutions leading to signing of fresh PPA with a new entity, an amount of Rs. 1 Lakh per MW +18% GST per transaction as facilitation fee (non-refundable) shall be deposited by the SPG to DISCOM.

13.3.7 In the event the lenders are unable to substitute the defaulting SPG within the stipulated period, DISCOM may terminate the PPA and may acquire the Project assets for an amount equivalent to 90% of the debt due, failing which, the lenders may exercise their mortgage rights and liquidate the Project assets.

13.4 Procedure for cases of DISCOM Event of Default

13.4.1 Upon the occurrence and continuation of any DISCOM Event of Default specified in Article 13.2, the SPG shall have the right to deliver to DISCOM, a SPG Preliminary Default Notice, which notice shall specify in reasonable detail the circumstances giving rise to its issue.

13.4.2 Following the issue of a SPG Preliminary Default Notice, the Consultation Period of ninety (90) days or such longer period as the Parties may agree, shall apply and it shall be the responsibility of the Parties to discuss as to what steps shall be taken with a view to mitigate the consequences of the relevant Event of Default having regard to all the circumstances.

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

13.4.4 After a period of two hundred ten (210) days following the expiry of the Consultation Period and unless the Parties shall have otherwise agreed to the contrary or DISCOM Event of Default giving rise to the Consultation Period shall have ceased to exist or shall have been remedied, DISCOM under intimation to SPG shall, subject to the prior consent of the SPG, novate its part of the PPA to any third party, including its Affiliates within the stipulated period. In the event the aforesaid novation is not acceptable to the SPG, or if no offer of novation is made by DISCOM within the stipulated period, then the SPG may terminate the PPA and at its discretion require DISCOM to either (i) takeover the Project assets by making a payment of the termination compensation equivalent to the amount of the debt due and 150% (one hundred and fifty per cent) of the adjusted equity or, (ii) pay to the SPG, damages, equivalent to 6 (six) months, or balance PPA period whichever is less, of charges for its contracted capacity, with the Project assets being retained by the SPG.

Provided further that at the end of three (3) months period from the period mentioned in this Article 13.4.4, this Agreement may be terminated by the SPG.

13.5 Termination due to Force Majeure
13.5.1 If the Force Majeure Event or its effects continue to be present beyond a period as specified in Article 4.4.2, either Party shall have the right to cause termination of the Agreement. In such an event this Agreement shall terminate on the date of such Termination Notice without any further liability to either Party from the date of such termination.

ARTICLE 14: LIABILITY AND INDEMNIFICATION

14.1 Indemnity

14.1.1 The SPG shall indemnify, defend and hold DISCOM harmless against:

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

14.1.2 DISCOM shall indemnify, defend and hold the SPG harmless against:

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

14.2 Procedure for claiming Indemnity

14.2.1 Third party claims

a. Where the Indemnified Party is entitled to indemnification from the Indemnifying Party pursuant to Article 14.1.1(a) or 14.1.2(a), the Indemnified Party shall promptly notify the Indemnifying Party of such claim referred to in Article 14.1.1(a) or 14.1.2(a) in respect of which it is entitled to be indemnified. Such notice shall be given as soon as reasonably practicable after the Indemnified Party becomes aware of such claim. The Indemnifying Party shall be liable to settle the indemnification claim within thirty (30) days of receipt of the above notice. Provided however that, if:

i) the Parties choose to refer the dispute before the Arbitrator in accordance with Article 16.3.2; and

ii) the claim amount is not required to be paid/ deposited to such third party pending the resolution of the Dispute,

the Indemnifying Party shall become liable to pay the claim amount to the Indemnified Party or to the third party, as the case may be, promptly following the resolution of the Dispute, if such Dispute is not settled in favour of the Indemnified Party.

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

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

14.3 **Indemnifiable Losses**

14.3.1 Where an Indemnified Party is entitled to Indemnifiable Losses from the Indemnifying Party pursuant to Article 14.1.1(b) or 14.1.2(b), the Indemnified Party shall promptly notify the Indemnifying Party of the Indemnifiable Losses actually incurred by the Indemnified Party. The Indemnifiable Losses shall be reimbursed by the Indemnifying Party within thirty (30) days of receipt of the notice seeking Indemnifiable Losses by the Indemnified Party. In case of nonpayment of such losses after a valid notice under this Article 14.3, such event shall constitute a payment default under Article 13.

14.4 **Limitation on Liability**

14.4.1 Except as expressly provided in this Agreement, neither the SPG 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 DISCOM, the SPG or others), strict liability, contract, breach of statutory duty, operation of law or otherwise.

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

14.5 **Duty to Mitigate**

14.5.1 The Parties shall endeavour to take all reasonable steps so as mitigate any loss or damage which has occurred under this Article 14.

**ARTICLE 15: ASSIGNMENTS AND CHARGES**

### 15.1 **Assignments**

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, except to the Project Lenders or Lender’s Representative as security for their debt under the Financing Agreements, other than by mutual consent between the Parties to be evidenced in writing. Such assignment shall be agreed to by DISCOM subject to the compliance of provisions contained in this
Agreement and more specifically to the provisions of Article 4.1.1 of this Agreement. In no case, such assignment shall be permissible prior to the declaration of COD.

Provided that, DISCOM shall permit assignment of any of SPG’s rights and obligations under this Agreement in favour of the lenders to the SPG, if required under the Financing Agreements. Provided that, such consent shall not be withheld if DISCOM seeks to transfer to any transferee all of its rights and obligations under this Agreement.

The enforcement of the rights and obligation between the SPG and the DISCOM provided in this Agreement shall not be treated as an assignment but an enforcement of the terms agreed under this Agreement.

Provided further that any successor(s) or permitted assign(s) identified after mutual agreement between the Parties may be required to execute a new agreement on the same terms and conditions as are included in this Agreement. An amount of Rs. 1 Lakh per Transaction as Facilitation Fee (non-refundable) shall be deposited by the SPG to DISCOM. Provided further that, such consent shall not be withheld by the SPG if DISCOM seeks to transfer to any affiliate all of its rights and obligations under this Agreement.

In the event of Change in Shareholding/Substitution of Promoters triggered by the Financial Institutions leading to signing of fresh PPA with a New Entity, an amount of Rs. 1 Lakh per Transaction as Facilitation Fee (non-refundable) shall be deposited by the SPG to DISCOM.

15.2 Permitted Charges

15.2.1 SPG shall not create or permit to subsist any encumbrance over all or any of its rights and benefits under this Agreement, other than as set forth in Article 15.1 and the Guidelines.

ARTICLE 16: GOVERNING LAW AND DISPUTE RESOLUTION

16.1 Governing Law

16.1.1 This Agreement shall be governed by and construed in accordance with the Laws of India. Any legal proceedings in respect of any matters, claims or disputes under this Agreement shall be under the jurisdiction of appropriate courts in __________.

16.2 Amicable Settlement and Dispute Resolution

16.2.1 Amicable Settlement

i. Either Party is entitled to raise any claim, dispute or difference of whatever nature arising under, out of or in connection with this Agreement (“Dispute”) by giving a written notice (Dispute Notice) to the other Party, which shall contain:

(a) a description of the Dispute;

(b) the grounds for such Dispute; and

(c) all written material in support of its claim.

ii. The other Party shall, within thirty (30) days of issue of Dispute Notice issued under Article 16.2.1(i), furnish:
(a) counter-claim and defences, if any, regarding the Dispute; and
(b) all written material in support of its defences and counter-claim.

iii. Within thirty (30) days of issue of Dispute Notice by any Party pursuant to Article 16

(i) if the other Party does not furnish any counter claim or defence under Article 16
(ii) or thirty (30) days from the date of furnishing counter claims or defence by the other Party, both the Parties to the Dispute shall meet to settle such Dispute amicably. If the Parties fail to resolve the Dispute amicably within thirty (30) days from the later of the dates mentioned in this Article 16.2.1.

(iii) the Dispute shall be referred for dispute resolution in accordance with Article 16.3.

16.3 Dispute Resolution

16.3.1 Dispute Resolution by the Appropriate Commission

i) Where any Dispute or differences arises in relation to this agreement of any nature whatsoever including the construction, interpretation or implementation of the provisions of this agreement as well as claim made by any Party for any change in or determination of the Tariff or any matter related to Tariff or claims made by any Party which partly or wholly relate to any change in the Tariff or determination of any of such claims could result in change in the Tariff, and relates to any matter agreed to be referred to the Appropriate Commission, shall be submitted to adjudication by the Appropriate Commission. Appeal against the decisions of the Appropriate Commission shall be made only as per the provisions of the Electricity Act, 2003, as amended from time to time.

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

16.3.2 Dispute Resolution through Arbitration

i) If the Dispute arising as per Article 16.2.1 is not amicably resolved & such dispute is not covered in Article 16.3.1(i), such Dispute shall be resolved by arbitration under the provisions of the Electricity Act, 2003 (as amended from time to time) as under: Proceedings as well as appointment of the arbitrator(s) shall be carried out by the Appropriate Commissions under the Electricity Act 2003 as amended from time to time. As stipulated by the said Electricity Act 2003, the said arbitration will take place as per the provisions of the Arbitration and Conciliation Act 1996 as amended from time to time.

ii) The place of arbitration shall be the _______(City where head quarter of DISCOM is located). The language of the arbitration shall be English.

iii) The Arbitration Tribunal’s award shall be substantiated in writing. The Arbitration Tribunal shall also decide on the costs of the arbitration proceedings and the allocation thereof.

iv) The provisions of this Article shall survive the termination of this PPA for any reason whatsoever.

v) The award shall be of majority decision.
vi) DISCOM shall be entitled to co-opt the lenders (if any) as a supporting party in such arbitration proceedings.

16.4 **Parties to Perform Obligations**

16.4.1 Notwithstanding the existence of any Dispute and difference referred to the Appropriate Commission and save as the Appropriate Commission may otherwise direct by a final or interim order, the Parties hereto shall continue to perform their respective obligations (which are not in dispute) under this Agreement.

**ARTICLE 17: MISCELLANEOUS PROVISIONS**

17.1 **Amendment**

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

17.2 **Third Party Beneficiaries**

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

17.3 **Waiver**

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

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

17.4 **Confidentiality**

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

a) to their professional advisors;

b) to their officers, contractors, employees, agents or representatives, financiers, who need to have access to such information for the proper performance of their activities; or

c) disclosures required under Law, without the prior written consent of the other Party.

17.5 **Severability**

17.5.1 The invalidity or unenforceability, for any reason, of any part of this Agreement shall not prejudice or affect the validity or enforceability of the remainder of this Agreement, unless the part held invalid or unenforceable is fundamental to this Agreement.

17.6 **Notices**
17.6.1 All notices or other communications which are required to be given under this Agreement shall be in writing and in the English language.

17.6.2 If to the SPG, all notices or other communications which are required must be delivered personally or by registered post or facsimile or any other method duly acknowledged to the addresses below:

Address:
Attention:
Email:
Fax. No. :
Telephone No. :

17.6.3 If to DISCOM, all notices or communications must be delivered personally or by registered post or facsimile or any other mode duly acknowledged to the address(es) below:

Address:
Attention:
Email:
Fax. No. :
Telephone No. :

17.6.4 All notices or communications given by facsimile shall be confirmed by sending a copy of the same via post office in an envelope properly addressed to the appropriate Party for delivery by registered mail. All notices shall be deemed validly delivered upon receipt evidenced by an acknowledgement of the recipient, unless the Party delivering the notice can prove in case of delivery through the registered post that the recipient refused to acknowledge the receipt of the notice despite efforts of the postal authorities.

17.6.5 Any Party may by notice of at least fifteen (15) days to the other Party change the address and/or addresses to which such notices and communications to it are to be delivered or mailed.

17.7 Language

17.7.1 All agreements, correspondence and communications between the Parties relating to this Agreement and all other documentation to be prepared and supplied under the Agreement shall be written in English, and the Agreement shall be construed and interpreted in accordance with English language.

17.7.2 If any of the agreements, correspondence, communications or documents are prepared in any language other than English, the English translation of such agreements, correspondence, communications or documents shall prevail in matters of interpretation.
17.8  **Restriction of Shareholders / Owners’ Liability**

17.8.1 Parties expressly agree and acknowledge that none of the shareholders of the Parties hereto shall be liable to the other Parties for any of the contractual obligations of the concerned Party under this Agreement. Further, the financial liabilities of the shareholder/s of each Party to this Agreement, shall be restricted to the extent provided in the Indian Companies Act, 2013.

17.9  **Taxes and Duties**

17.9.1 The SPG shall bear and promptly pay all statutory taxes, duties, levies and cess, assessed/levied on the SPG, contractors or their employees that are required to be paid by the SPG as per the Law in relation to the execution of the Agreement and for supplying power as per the terms of this Agreement.

17.9.2 DISCOM shall be indemnified and held harmless by the SPG against any claims that may be made against DISCOM in relation to the matters set out in Article 17.9.1.

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

17.10  **Independent Entity**

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

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

17.11  **Compliance with Law**

Despite anything contained in this Agreement but without prejudice to this Article, if any provision of this Agreement shall be in deviation or inconsistent with or repugnant to the provisions contained in the Electricity Act, 2003, or any rules and regulations made there under, such provision of this Agreement shall be deemed to be amended to the extent required to bring it into compliance with the aforesaid relevant provisions as amended from time to time.

17.13  **Breach of Obligations**

The Parties acknowledge that a breach of any of the obligations contained herein would result in injuries. The Parties further acknowledge that the amount of the liquidated damages or the method of calculating the liquidated damages specified in this Agreement is a genuine and reasonable pre-estimate of the damages that may be suffered by the non-defaulting party in each case specified under this Agreement.

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

For and on behalf of [DISCOM]  
For and on behalf of [SPG]
Name, Designation and Address

Signature with seal

Witness:
1.
2.

Name, Designation and Address

Signature with seal

Witness:
1.
2.
MODEL LEASE AGREEMENT

This AGREEMENT OF LEASE entered into on this _______ day of ______________________ at ________________.

BETWEEN:

_________________ (hereinafter referred to as the “LESSOR/OWNER”, which expression shall, wherever the context so requires or admits, SHALL mean and include his legal heirs, executors, administrators and assignees);

AND:

_________________ (Name of Renewable Power Generator (SPG)) Represented by ___________________ (hereinafter referred to as the “LESSEE, which expression shall, wherever the context so requires or admits, SHALL mean and include its executors, administrators and assignees successors in interest).

I. WHEREAS the Lessor is the owner in possession of the Barren/ Agricultural land measuring ____ Acre ______ Kanal_______ marla_________ Share out of Hadbast No._______ Khewat No._______ Khatoni No. ___ Khasra No._______ Mustil No.______ Kila No. ____________ situated at Village/City ______________ Tehsil ____________ District which is more fully described in the Schedule hereunder and hereinafter referred to as the Schedule property.

(Note: The legal revenue terms to be changes to those prevalent in the State)

II. WHEREAS the ______________________ (Name of SPG) being a __________________ (Details of SPG) with an object to plan, develop and operate Renewable Energy based Power Plant (REPP) under MNRE Scheme notified on 8th March 2019.

III. (a) WHEREAS pursuant to the request of the Lessee, the Lessor has agreed to grant the lease, the Lessee has agreed to take on lease from the Lessor the land which is more fully described in Schedule written hereunder and hereinafter referred to as “THE SCHEDULE PROPERTY” for setting up of the “_______ Power Plant”.

(b) That pursuant to the request of the Lessee, the Lessor has submitted an application under Section ______ for the conversion of the land and on behalf of the Lessor/owner the____________________ (Name of SPG) shall presume that the land is deemed to have been converted for non-agricultural purposes. (Clause to be modified as per State Policy for use of Agriculture land for generation of renewable power)

IV. NOW THIS AGREEMENT OF LEASE WITNESSES THAT in consideration of the above and of the mutual covenants of the Parties hereto, the Lessor hereby grants and the Lessee hereby accepts the lease of the Schedule property on the following terms and conditions:

1. PURPOSE OF LEASE:

Annexure-III
The grant of lease by the Lessor to the Lessee in respect of the Schedule property is for the purpose of developing a _______ Power Plant under MNRE Scheme notified on 8th March 2019.

2. **PERIOD OF THE LEASE**

The period of this Lease shall be for Twenty-seven (27) years from this day which may be renewed at the option of the Lessee and Lessor for further period, on such mutually agreeable terms as may be agreed at the time of renewal, by both the parties, by executing and registering separate Lease Agreement.

3. **RENT**

(a) The rent payable by the Lessee to the Lessor for the Schedule Property shall be Rs.____/- (Rupees ______________) only per annum per Acre. The portion of the land less than one Acre shall be calculated in terms of Square meter and the rent payable for the same shall be at Rs.____/- per Square meter or part thereof, per annum.

OR

The rent payable by the Lessee to the Lessor after Commercial Operation of the power plant shall be Rs. _____ per unit of total power generated from the power plant installed on the land of Lessor. Till the start of commercial operation of the plant, the rent shall be Rs.____/- (Rupees ______________) only per annum per Acre.

(b) The annual rent shall be paid in twelve equal instalments and each instalment to be paid by 5th day of every month, by crediting the same to the Lessor’s Bank Account the details of which may be furnished by the Lessor from time to time.

OR

In case of lease rent on the basis of Rs. _____ per unit, the monthly lease rent would be calculated on the basis of monthly electricity injected into the grid from the power plant installed on the land of Lessor.

(c) Lessor may opt for payment of lease rent directly from the Distribution company, which will sign Power Purchase Agreement with Lessee for the above-mentioned______ Power Plant to be installed by Lessee. In such a case the Distribution company will pay the lease rent to Lessor on monthly basis from the proceeds payable to the Lessee in lieu of Power supplied by Lessee. In order to give this effect a suitable provision will be made in the PPA to be signed between Lessee and the Distribution Company.

(d) [on mutual agreement between Lessor and Lessee] The rent hereby reserved shall be paid by enhancing the same at the end of every ______ year(s), at ___% on the rent hereby agreed.

(e) If the Lessee delays the payment of rent by due date of every month, for any reason, the same shall be paid by adding the interest at the rate ___% for the said delayed period.

4. **GENERAL TERMS**

   i. In consideration of the rent herein agreed as payable to the Lessor being paid by the Lessee regularly and on complying other terms and conditions and
covenants by the Lessee, the Lessee shall peacefully possess and enjoy the **Schedule Property** during the lease period without any interruption by the Lessor.

ii. The Lessor shall allow the Lessee or its representatives to conduct survey and other related work.

iii. The Lessor has no objections for the Lessee to establish the _______ Power Plant in the Schedule property which is the purpose of the grant of this lease and to that effect the Lessee entering into any agreement/s, deeds with companies, individuals, developers/third party etc. in respect of the Schedule property.

iv. The Lessor has no objections for the Lessee or its representatives for installation of machineries, equipments, etc. for generation of _______ power in the Schedule property and all work relating to thereto including but not limited to laying poles, wires, etc.

5. **EVENT OF SALE, ACCEPTANCE OF LEASE BY THE NEW OWNER**

(a) In the event of the owners transferring their rights/interest in any manner during the existence of the lease to any other person, the same may be allowed without affecting the rights of the Lessee under the Lease Agreement in any manner and the owners/purchasers/transferees shall inform the Lessee about the acquiring of the right/interest in respect of the leased property and on receipt of such information, the Lessee shall accept such new purchaser’s/transferee’s ownership of the land and obtain a written confirmation from such new owner/purchaser/transferee to the effect that he will be bound by the terms of the Lease Agreement.

(b) In the event of the owners transferring their rights/interest to any other person, the same may be informed to the Lessee and the Lessor shall ascertain and obtain all the necessary documents from the transferee to the effect that the transferee will be bound by the terms and conditions of the Lease Agreement for the balance period of the lease or for using the said documents for renewal of the lease for the balance period.

(c) During the subsistence of the lease, the Lessor shall not carry any activity, in the Schedule property, other than those agreed in this agreement;

(d) The change in the legal status of the Lessee shall not affect the terms and conditions of this Agreement.

(e) The original Lease Agreement shall be with the Lessee and the copy of the same will be with the Lessor.

(f) In the event of any dispute in respect of the land, the Lessee shall deposit the rent in the concerned civil court. In the event of retention of the rent with the Lessee, the Lessee shall be pay the same together with interest thereon at the rate ____% for such period.

(g) The Lessee shall not offer or create any charge or encumbrance by offering the same as by way of mortgage, security, etc. in favour of any Banks or financial institutions in respect of the loans or advances or any other financial facilities that may be availed by the Lessee.

(h) The owners shall pay the land tax/revenue in respect of the lands.

6. **PAYMENT OF STAMP DUTY AND REGISTRATION CHARGES:**

The stamp duty and other registration charges, as applicable for this Agreement of Lease shall be paid by the Lessee.
7. **FORCE MAJEURE:**

It is also agreed and understood between the parties that in case of any mishap due to fire, earthquake, strike, floods, tempest, war, riot, civil war or civil commotions, mob violence, civil disturbance, act of God or on account of terrorist attack, the Lessor shall not be liable for any loss or damage that may be occasioned to the Lessee/its merchandise.

8. **ADDRESSES FOR CORRESPONDENCE, ETC**

Any notice and/or communications between the Parties shall be deemed to be sufficient, if delivered by hand under acknowledgement or sent by registered post acknowledgement due to the following address or the address that may be intimated in writing to the Lessee by the Lessor from time to time:

**LESSOR'S:**

**LESSEE'S:**

9. **LESSOR'S DUTIES, COVENANTS AND OBLIGATIONS**

a) The Lessor hereby covenants with the Lessee that the Lessee paying regularly the rents hereby reserved and performing and observing all the covenants of the Lessee herein contained, shall be entitled, during the subsistence of this lease to enjoy the Schedule property without let, hindrance or interference from the Lessor or any other person/s claiming through or under him; Still, in the event of the Lessee restrained from enjoying the peaceful possession of the Schedule property or on account of any action by the Government during the period of lease and in the event of dispossession of the Lessee from the Schedule property or any portion thereof forcibly, due to any default of the Lessor, the Lessor shall make good the reasonable loss that may be suffered by the Lessee.

b) The Lessor shall offer necessary support and co-operation to the Lessee in its process to obtain required permission/s, approval/s, clearances, etc., from any Statutory Authority or other Local Bodies for the purpose of obtaining and licence, permissions, etc., for installation of power plant. However, obtaining such permission/s, approval/s, clearances, etc., shall be the sole responsibility of Lessee.

10. **LESSEE'S COVENANT AND OBLIGATIONS**

The Lessee hereby covenants with the Lessor as under:

(a) The Schedule property shall be utilised for the purpose referred to in Clause (1) above;
(b) The Lessee shall pay the rents (as per Clause (3)) regularly and promptly;

11. **TERMINATION AND RE-ENTRY**

The Lease shall be determinable under all or any of the following circumstances, namely—

i) by efflux of time;
ii) in the event of breach by either party of the terms, conditions and covenants hereof;
iii) if the Scheduled Premises or any part thereof is severely damaged or destroyed due to any unforeseen circumstances or civil commotion, act of God, etc., and these damages be not restored to by the LESSOR within a reasonable time or if the demised premises is acquired compulsorily by any authority;

iv) After the expiry of lease period, the Lessee shall handover the land to the Lessor as it was existed previously at the time of this agreement (subject to normal wear and tear).

12. **VARIATION:**

The Lessor and the Lessee hereto acknowledge that this agreement supersedes all prior communications between them including all oral or written proposals. Any variation, addition and modifications of this agreement between the parties shall be valid only if in writing by the Lessor and Lessees authorized representative.

13. **ARBITRATION:**

a) Any disputes or differences arising between the Parties hereto as to the effect, interpretation or application any of the clauses of this LEASE AGREEMENT or as to their rights, duties or liabilities thereunder, or as to any act, matter or thing arising out of, or consequent to, or in connection with this LEASE AGREEMENT shall be referred to and resolved by Arbitration by referring the same for arbitration to any retired District Judge and shall be resolved finally at his arbitration under Arbitration and Conciliation Act 1996 and its Amendments or any other Enactment. The Arbitration proceedings shall be held at __________ and shall be in English/__________ Language.

b) This LEASE AGREEMENT shall be governed by the laws of India. The Courts at__________ alone shall have the jurisdiction to entertain and or try any dispute arising out of or in connection with or in relation to the terms of this LEASE AGREEMENT.

IN WITNESS WHEREOF the parties hereto have executed these presents in the presence of the witnesses attesting hereunder on the day, month and year mentioned hereinabove.

LESSOR

LESSEE

WITNESSES:

1.

2.

**SCHEDULE PROPERTY**

All that piece and parcel of Barren/ Agricultural land measuring ____ Acre ____

Kanal______ marla________ Share out of Hadbast No.______ Khewat No.______ Khatoni No. ___ Khasra No._______ Mustil No. ____ Kila No. ___________ situated at Village/City ___________ Tehsil _________ District and bounded on the:
(Note: The legal revenue terms to be changes to those prevalent in the State)

East by:
West by:
North by:
South by: