



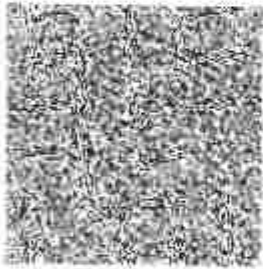
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# INDIA NON JUDICIAL

## Government of National Capital Territory of Delhi

### e-Stamp

Certificate No.	: IN-DL23179801283688Q
Certificate Issued Date	: 31-Dec-2018 01:17 PM
Account Reference	: IMPACC (IV)/ dl721003/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL72100351350088693103Q
Purchased by	: WAAREE ENERGIES LIMITED
Description of Document	: Article 5 General Agreement
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: WAAREE ENERGIES LIMITED
Second Party	: WAANEPP SOLAR PRIVATE LIMITED AND OHTERS
Stamp Duty Paid By	: WAAREE ENERGIES LIMITED
Stamp Duty Amount(Rs.)	: 500 (Five Hundred only)



THIS STAMP PAPER FORMS AN INTEGRAL PART OF AMENDMENT TO SHARE PURCHASE AGREEMENT DATED DECEMBER 31, 2018 BY AND AMONGST HERO SOLAR ENERGY PRIVATE LIMITED AND WAANEPP SOLAR PRIVATE LIMITED AND WAAREE ENERGIES LIMITED AND HITESH C. DOSHI AND VIREN C. DOSHI



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**AMENDMENT TO SHARE PURCHASE AGREEMENT**

**BY AND AMONGST**

**HERO SOLAR ENERGY PRIVATE LIMITED  
("Purchaser")**

**AND**

**WAAREE ENERGIES LIMITED  
("Seller I")**

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**AND**

**PERSONS LISTED IN SCHEDULE I OF THE SPA  
("Other Sellers")**

**AND**

**WAANEER SOLAR PRIVATE LIMITED  
("Company")**



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## AMENDMENT TO SHARE PURCHASE AGREEMENT

This amendment to the share purchase agreement ("**Amendment Agreement**") is executed at New Delhi on this 31<sup>st</sup> of December 2018 ("**Execution Date**") by and amongst:

1. **HERO SOLAR ENERGY PRIVATE LIMITED**, a company incorporated under the laws of India, having corporate identity number U40106DL2013PTC250501, having its registered office at Plot no. 201, First Floor, Okhla Industrial Estate, Phase - III, New Delhi - 110020 (hereinafter referred to as the "**Purchaser**", which expression shall, unless it be repugnant to the meaning or context thereof, be deemed to mean and include its successors and permitted assigns);
2. **WAAREE ENERGIES LIMITED**, a company incorporated under the laws of India, having corporate identity number U29248MH1990PLC059463, having its registered office at 602, 6<sup>th</sup> Floor, Western Edge - I, Western Express Highway, Borivali (East), Mumbai 400 066 and acting through its corporate office at 230-232, Somdutt Chamber 2, Bhikaji Cama Place, New Delhi - 110066 (hereinafter referred to as "**Seller I**", which expression shall, unless it be repugnant to the meaning or context thereof, be deemed to mean and include its successors and permitted assigns);
3. **THE PERSONS WHOSE NAMES AND PARTICULARS ARE SET OUT IN SCHEDULE I** of the SPA (*defined below*), acting through their constituted attorney Mr. Hitesh Mehta (hereinafter collectively referred to as the "**Other Sellers**" and individually as a "**Other Seller**", which expression shall, unless it be repugnant to the meaning or context thereof, be deemed to mean and include their respective legal heirs, executors, administrators and permitted assigns); and
4. **WAANEEP SOLAR PRIVATE LIMITED**, a company incorporated under the laws of India, having corporate identity number U40300DL2014PTC341389, having its registered office at Unit No. 230, 2nd Floor, Somdutt CH-11, Bhikaji Cama Place, Africa Avenue, New Delhi-110066, India (hereinafter referred to as the "**Company**", which expression shall, unless it be repugnant to the meaning or context thereof, be deemed to mean and include its successors and permitted assigns).

Seller I and the Other Sellers are collectively referred to as the "**Sellers**" and individually as a "**Seller**", as the context may require. The Purchaser, the Sellers and the Company are hereinafter collectively referred to as the "**Parties**" and individually as a "**Party**".

### **WHEREAS:**

- A. The Parties had entered into a share purchase agreement dated July 11, 2018 ("**SPA**") for acquisition of 100% (One Hundred Percent) shareholding of the Company by the Purchaser from the Sellers. Pursuant to the first closing under the SPA, the Purchaser had acquired 49% (Forty Nine Percent) of the issued and paid up share capital of the Company from Seller I and Other Sellers. Pursuant to the provisions of the SPA, Seller I and the Purchaser have extended the Long Stop Date to October 10, 2018 vide letter dated September 9, 2018; to November 10, 2018 vide letter dated October 9, 2018; to December 31, 2018 vide letter dated November 9, 2018.
- B. As on the Execution Date of this Amendment Agreement, the Purchaser is the legal and beneficial owner of 10,04,50,000 (Ten Crores Four Lakhs Fifty Thousand) Equity Shares representing 49% (Forty Nine Percent) of the total issued and paid up share capital of the Company and Seller I owns 10,45,50,000 (Ten Crores Forty Five Lakhs Fifty Thousand) Equity Shares representing 51% (Fifty One Percent) of the total issued and paid up share capital of the Company.
- C. In terms of the SPA, it was agreed that the Nagari Project (along with the Somala Land, Vedaang



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Land and Tender BG) will be an 'Excluded Asset' and will be transferred by the Company to Seller I (or any person identified by Seller I), in accordance with Clause 9 of the SPA.

- D. It has now been agreed between the Purchaser and Seller I, that the Nagari Project shall not be an 'Excluded Asset' and shall form part of the project portfolio of Company, to be acquired by the Purchaser pursuant to the Second Closing under the SPA read with this Amendment Agreement. Pursuant to Clause 19.3 (*Amendment / Variation*) of the SPA, Parties have now agreed to enter into this Amendment Agreement to amend the SPA, to record the revised understanding between the Parties for acquisition of the balance 51% (Fifty One Percent) share capital held by Seller I in the Company and the Nagari Project by the Purchaser.

**IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS SET FORTH HEREIN AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:**

**1. Interpretation and Construction:**

- 1.1 This Amendment Agreement shall be read in unison with the SPA. The terms and conditions of the Transaction Documents shall be read harmoniously along with this Amendment Agreement.
- 1.2 Capitalised words and expressions used but not specifically defined or amended herein shall, unless otherwise specified, have the meanings assigned to them under the SPA.
- 1.3 Except to the extent modified by this Amendment Agreement, all other terms and conditions of the SPA all other obligations of the Parties shall remain unaffected and continue to be in force and binding on the Parties.
- 1.4 Reference to any agreement under this Amendment Agreement shall include the reference to such agreement as novated and amended from time to time till the date of execution of this Amendment Agreement. Further any reference to the SPA unless otherwise specified shall deem to include its amendments/addendums/modifications etc. thereto.
- 1.5 Any reference to the SPA shall mean and include the SPA read with this Amendment Agreement.
- 1.6 In case any term of the SPA is inconsistent, or is in conflict, with the terms of this Amendment Agreement, the terms of this Amendment Agreement shall prevail.

**2. Amendment to Clause 1.1:**

- 2.1 The following definitions shall be read as part of Clause 1.1 (*Definitions and Interpretation*) of the SPA at the appropriate places.

"Adjustment Statement" shall have the meaning ascribed to the term in Clause 5.7D;

"Amendment Agreement" shall mean this amendment agreement to the SPA;

"AP Project Liquidated Damages Claim" shall have the meaning assigned to the term in Clause 5.7F;

"AP Project LD Notice" shall have the meaning assigned to the term in Clause 5.7F;



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"AP Project LD Withholding Amount" shall have the meaning assigned to the term in Clause 5.7F;

"Diligence Withholding Amount" shall have the meaning assigned to the term in Clause 5.7D;

"Diligence Withholding Amount Payment Date" shall mean March 31, 2019 or such other date as mutually agreed between the Seller I and the Purchaser;

"Demand Notice" shall mean the demand notice no. ITBA/AST/S/156/2018-19/1014648942(1) dated December 29, 2018, issued by the Office of the Assistant Commissioner of Income Tax, Income Tax Department, Circle 13(3)(1), Mumbai under Section 156 of the Income Tax Act, 1961;

"Escrow Agent II" shall mean Yes Bank Limited (or any other Person mutually agreed between the Parties in writing) appointed by the Parties to act as the escrow agent post Second Closing Date, in accordance with the terms of the Second Closing Escrow Agreement;

"Generation Loss Escrow Amount" shall have the meaning assigned to the term in Clause 5.7B(ii);

"Generation Loss Withholding Amount" shall have the meaning assigned to the term in Clause 5.7B(i);

"Incomplete CP Items" shall have the meaning assigned to the term in Clause 5.7A(i) hereto;

"Incomplete CP Bank Guarantee" shall mean the unconditional and irrevocable bank guarantee furnished by Seller I to the Purchaser in an Agreed Form of an amount equal to Rs. 50,00,000 (Rupees Fifty Lakhs) and with a validity at least till April 15, 2019, as security against release of the Incomplete CP Items Amount to the Seller I, for fulfilment of the Incomplete CP Items;

"Incomplete CP Items Amount" shall mean an amount equal to Rs. 50,00,000 (Rupees Fifty Lakhs) forming part of the Effective Purchase Price, payable in the manner provided in Clause 6 of this Amendment Agreement;

"IT Assessment Order" shall mean the order no. ITBA/AST/S/143(3)/2018-19/1014648940(1) dated December 29, 2018, issued by the Office of the Assistant Commissioner of Income Tax, Income Tax Department, Circle 13(3)(1), Mumbai under Section 143(3) of the Income Tax Act, 1961;

"IT Claim" shall have the meaning assigned to the term in Clause 5.7G(i);

"IT Claim Amount" shall have the meaning assigned to the term in Clause 5.7G(ii);

"IT Claim BG" shall mean the unconditional and irrevocable bank guarantee furnished by Seller I to the Purchaser in an Agreed Form of an amount equal to Rs. 5,57,00,000 (Rupees Five Crores Fifty Seven Lakhs) with a validity of at least 6 (six) months from the date of issuance thereof, as security against release of the IT Claim Withholding Amount by the Purchaser to Seller I;

"IT Claim Withholding Amount" shall have the meaning assigned to the term in Clause 5.7G(ii);

"Liquidated Damages BG" shall mean the unconditional and irrevocable bank guarantee furnished by Seller I to the Purchaser in an Agreed Form of an amount equal to Rs. 12,00,00,000 (Rupees Twelve Crores) with a validity of at least 6 (six) months from the date of issuance thereof, as security



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against release of the such portion of the AP Project Liquidated Damages Claim by the Purchaser to Seller I;

“**Liquidated Damages Claim Amount**” shall have the meaning assigned to the term in Clause 5.7F(iii);

“**Nagari BOCW Notice**” shall mean notices issued to the Company with respect to the Nagari Project, by Joint Commissioner of Labour, Zone IV, Kurnool, Andhra Pradesh, dated April 25, 2018 and September 18, 2018 under the Building and Other Construction Workers’ Welfare Cess Act, 1996;

“**Nagari BOCW Withholding Amount**” with respect to the Nagari BOCW Notice, shall mean an amount equal to Rs. 1,50,00,000 (Rupees One Crore Fifty Lakhs), forming part of the Effective Purchase Price, payable in the manner provided in this Amendment Agreement;

“**Nagari Disclosure Letter**” means the disclosure letter dated as of the Execution Date hereof, issued by the Company and the Seller I to the Purchaser, in the form and manner acceptable to the Purchaser, which shall be substantially in the format annexed at **Schedule XV** of the SPA. The Nagari Disclosure Letter shall set out details of disclosures specifically, fully and fairly made by Seller I, which disclosures shall constitute qualifications and exceptions to the Nagari Representations and Warranties against which the disclosure is made, as of the Execution Date hereof. It is clarified that the disclosures contained in the Nagari Disclosure Letter shall not limit the right of the Indemnified Parties to claim indemnity in respect of the matters mentioned in **Schedule XIII** hereof (*Nagari Specific Indemnities*);

“**Nagari Government Land**” means the land parcel collectively admeasuring 3 acres (approx.) located at Survey No.158/2 and S.No.165 at Village O G Kuppam, Mandal Nagari, District Chittoor;

“**Nagari Land Application**” means the application dated 11.07.2017 filed by the Company with the Energy Secretary, Andhra Pradesh, India;

“**Nagari Land Withholding Amount**” means an amount aggregating to Rs. 1,00,00,000 (One crore only);

“**Nagari Outstanding Receivables**” means Rs. 3,54,57,070 (Rupees Three Crore Fifty Four Lakh Fifty Seven Thousand and Seventy);

“**Nagari Project**” shall mean the solar power project with 25MW (Twenty Five Megawatt) AC capacity, located at Nagari, Andhra Pradesh, further details of which are provided in **Schedule XIII** of the SPA;

“**Nagari Project Conditions Subsequent**” shall have the meaning assigned to the term in **Part C** of **Schedule VIII** ;

“**Nagari Project Consideration**” means an amount aggregating to Rs. 5,56,80,416 (Rupees Five Crore Fifty Six Lakh Eighty Thousand Four Hundred and Sixteen) (assuming that the amount of Nagari Outstanding Receivables having been taken into account);

“**Nagari Project Land**” shall collectively mean the land aggregating to 87.88 (eighty seven decimal point eighty eight) acres located at Nagari, Chittoor District, Andhra Pradesh, details of which are set out in Schedule 6 hereto;



"Nagari Project PPA" shall mean the power purchase agreement dated December 6, 2014 executed between the Company and APSPDCL, as amended from time to time;

"Nagari Punch List Items" shall collectively mean the action items listed in Schedule IVA;

"Nagari Punch List Items Adjustment" shall have the meaning assigned to the term in Clause 5.7H;

"Nagari Punch List Items Adjustment Event" shall have the meaning assigned to the term in Clause 5.7H;

"Nagari Punch List Items Withholding Amount" shall mean an amount equal to Rs. 1,00,00,000 (Rupees One Crore);

"Nagari Representations and Warranties" shall have the meaning assigned to the term in Clause 11.1.8;

"Nagari Service Contract" shall mean the service contract dated October 14, 2015 executed between the Company and the Seller I, for undertaking mechanical and electrical works for the Nagari Project and for commissioning of the Nagari Project;

"Nagari Supply Contract" shall mean the service contract dated October 14, 2015 executed between the Company and the Seller I, for supply of equipment comprising the Nagari Project;

"Nagari Valuation Date" shall mean, in relation to the Nagari Project December 31, 2018;

"Nagari Valuation Date Accounts" shall mean the Accounts of the Company prepared as of the Nagari Valuation Date, in relation to the Nagari Project;

"Second Closing Date BG Interest" shall mean an amount of Rs. 3,75,15,762 /- (Rupees Three Crores Seventy Five Lakhs Fifteen Thousand Seven Hundred and Sixty Two);

"Second Closing Escrow Agreement" shall mean the escrow agreement entered into by the Escrow Agent II and Parties hereto, in Agreed Form, within 75 (seventy-five) days of execution of this Amendment Agreement or such other extended period as mutually agreed between the Seller I and the Purchaser;

"Second Closing Escrow Bank Account" shall mean the INR denominated, non-interest bearing bank account to be opened in the name of the Purchaser, maintained and operated by the Escrow Agent II in accordance with the terms of the Second Closing Escrow Agreement; and

"Waaree DTD" shall mean the debenture trust deed dated September 5, 2018 executed between Seller I and Vistra.

- 2.2 The following terms appearing in Clause 1.1 (*Definitions and Interpretation*) of the SPA shall stand amended and substituted as under-

"Approved Expense(s)" shall mean (a) the costs and expenses incurred by the Company specifically in relation to the MP Project and AP Project for the period post the Valuation Date until the Second



Closing Date, and limited to the following: (i) contracted operations and maintenance cost of Rs. 3,25,000 (Rupees Three Lakhs and Twenty Five Thousand) per megawatt per annum; (ii) interest and principal amount paid to the Lenders pursuant to the Continuing Loans of the Company; (iii) any Taxes, due and payable by the Company, paid to Governmental Authorities for the period post the Valuation Date; (iv) any charges or payments towards premiums of the insurance policies of the Company; (v) such other expenses as may be approved by the Purchaser;

“**BOCW Bank Guarantee**” shall mean an unconditional and irrevocable bank guarantee with a validity of at least 3 (three) months from the date of issuance thereof, which shall be in the Agreed Form, furnished by Seller I to the Purchaser, of an amount equal to Withholding Amount III;

“**BOCW Claim Amount**” shall collectively mean AP BOCW Claim Amount, MP BOCW Claim Amount and Nagari BOCW Claim Amount;

“**BG Interest**” shall mean the interest payable at the rate of 6.5% (Six point Five percent) per annum by the Purchaser to Seller I on any amounts to be paid by the Purchaser to Seller I from time to time in accordance with the terms hereof, calculated from the July 12, 2018 till actual payment of the amount to Seller I in accordance with the foregoing, unless specifically stated otherwise;

“**DISCOM**” shall mean (i) SECI, with respect to the MP Project; and (ii) APSPDCL, with respect to the AP Project and the Nagari Project;

“**Excluded Assets**” shall mean: (i) land admeasuring approx. 46.10 (Forty Six point one zero) acres located at Somala, Andhra Pradesh (“**Somala Land**”); (ii) Tender BG; and (iii) Vedaang Land; and all rights, title and interests in relation to or in connection with such assets;

“**Power Purchase Agreements**” shall collectively mean the MP Project PPA, Nagari Project PPA and AP Project PPA;

“**Second Closing Date Payment**” shall mean the amount equivalent to:

{**Effective Purchase Price**} – {**First Closing Date Payment**} – {**Advance Consideration**} – {**Withholding Amounts**} – {**Outstanding Receivables**} – {**Excluded Assets Sale Consideration**} – {**APSPDCL Receivable Remittance**} – {**Nagari Outstanding Receivables**}

“**Transaction Documents**” shall mean the Share Purchase Agreement dated July 11, 2018 read with this Amendment Agreement, the Disclosure Letter, the Nagari Disclosure Letter the Escrow Agreement (read with any amendments thereto), Second Closing Escrow Agreement and such other agreements and documents that are agreed to be a Transaction Document by the Purchaser and Seller I in writing; and

“**Valuation Date**” shall mean, in relation to the AP Project and MP Project, March 31, 2018;

“**Valuation Date Accounts**” shall mean the Accounts of the Company prepared as of the Valuation Date, in relation to the MP Project and AP Project;

“**WA III Cash Funding Date**” shall have the meaning assigned to the term in Clause 5.7(i); and

“**Withholding Amounts**” shall collectively mean the Withholding Amount I, Withholding Amount II, Withholding Amount III, Nagari Punch List Items Withholding Amount, Nagari Land Withholding Amount, Incomplete CP Withholding Amount, Diligence Withholding Amount, Nagari



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BOCW Withholding Amount, IT Claim Withholding Amount, AP Project LD Withholding Amount and Generation Loss Withholding Amount.

- 2.3 The term "BOCW Bank Guarantee Amount" appearing in Clause 1.1 (*Definitions and Interpretation*) of the SPA shall stand deleted.
3. The Parties acknowledge that as per Clause 3.3(iii) of the SPA, Seller I had furnished the Second Closing Deliverables to the Escrow Agent with respect to the transfer of the Seller I Second Closing Sale Shares by Seller I to the Purchaser on the Second Closing Date, in accordance with the terms of the SPA and the Escrow Agreement. Further, as per Clause 3.4 of the SPA, the Purchaser had funded the Escrow Bank Account with the Escrow Consideration, partly by way of cash and partly by way of bank guarantee(s). The Parties hereby acknowledge that post the First Closing Date, pursuant to mutual agreement between the Parties: (i) the Advance Bank Guarantee furnished by Seller I was returned to Seller I by the Purchaser; and (ii) the Escrow Consideration (as reduced by the First Closing Date Payment paid by the Purchaser to Seller I on the First Closing Date) deposited by the Purchaser by way of bank guarantee(s) was released to the Purchaser by the Escrow Agent. Such release of the Escrow Consideration to the Purchaser is without prejudice to the rights of Seller I under the SPA read with this Agreement to receive any amounts payable by the Purchaser to Seller I as a portion of the Effective Purchase Price in accordance with the terms hereof and the SPA.

The Parties hereby mutually agree: (i) to waive any non-compliance of the terms of Clause 3.3(iii) of the SPA (and other applicable provisions of the SPA in relation to funding of the Escrow Bank Account) by the Purchaser with respect to Clause 3.1 as provided above; and (ii) to proceed with the Second Closing and post Second Closing actions in accordance with the terms hereof. Provided however it is clarified for the avoidance of doubt that the obligations of the Purchaser to pay BG Interest to Seller I, as applicable under the terms of the SPA read with the terms hereof, shall continue to apply and be binding on the Parties. It is further agreed and acknowledged by the Parties that an amount aggregating to the Second Closing Date BG Interest shall be paid by the Purchaser to the Seller I together with the Second Closing Date Payment in accordance with the terms of SPA read with this Agreement, and it is clarified that the Second Closing Date BG Interest includes BG Interest on all Withholding Amounts under the SPA until December 31, 2018. Accordingly, the Parties acknowledge and agree that any further amount towards BG Interest on the Withholding Amounts post December 31, 2018, payable to the Seller I in accordance with the terms of the SPA read with this Amendment Agreement shall be calculated for the period commencing the date of receipt of the corresponding bank guarantees by the Purchaser from the Seller I till the date of payment of the respective amounts against the corresponding bank guarantees by the Purchaser to Seller I.

4. **Actions on the Execution Date of the Amendment Agreement and immediately after the Execution Date of the Amendment Agreement**

- 4.1 Seller I acknowledges and affirms to the Purchaser that as of the Execution Date hereof:
- (i) Seller I and the Company have not undertaken any action (including, without limitation, passing of any resolution of the Board and/or shareholders of the Company) to sell, assign, transfer or convey the Nagari Project to any Person, and no agreement, term sheet, letter of intent or similar arrangement (whether or not binding) has been executed for such sale, assignment, transfer or conveyance;
  - (ii) Seller I has intimated Vistra regarding the transactions contemplated under the SPA and this Amendment Agreement and the other Transaction Documents, and has obtained a written approval (copy of which has been provided to the Purchaser) from Vistra in respect of the



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same as required under the Waaree DTD, including, without limitation (i) approval for execution of this Amendment Agreement and other document(s) executed in relation thereto; (ii) transfer of the Nagari Project and shares of the Company in favour of the Purchaser in accordance with the terms of the Transaction Documents; and (iii) termination of contract(s) in relation to the construction, development, operation and maintenance of the Nagari Project, in accordance with the terms of the Transaction Documents; and

(iii) Seller I has intimated APSPDCL regarding the transactions contemplated under the SPA and this Amendment Agreement and the other Transaction Documents, and has obtained a written approval from APSPDCL (copy of which has been provided to the Purchaser) pursuant to the Nagari Project PPA in respect of the same, including, without limitation, approval for transfer of the Nagari Project and shares of the Company to the Purchaser in accordance with the terms of the Transaction Documents.

5. Notwithstanding anything to the contrary contained in the SPA or other Transaction Documents, the Parties hereby mutually agree that immediately upon completion of Second Closing (as contemplated hereby and the SPA), the Parties shall terminate the Escrow Agreement with the Escrow Agent and all amounts payable by the Purchaser to Seller I pursuant to the SPA and this Amendment Agreement, shall be paid directly by the Purchaser to Seller I (along with applicable interest, if any) in accordance with the terms of the SPA read with this Agreement. The Parties hereby agree that all relevant terms of the SPA, including, without limitation, Clause 5.5 (*Withholding Amount I*), Clause 5.6 (*Withholding Amount II*) and Clause 5.7 (*Withholding Amount III*), shall hereby stand amended to such extent.

6. Amendments to Clause 4 (Purchase Price):

6.1 Clause 4.1 (*Equity Consideration*) appearing in the SPA shall stand amended and replaced as under:

4.1 **Equity Consideration**

The aggregate purchase consideration for the sale and transfer of all the Sale Shares by the Sellers to the Purchaser in accordance with the Transaction Documents shall be Rs. 183,79,37,986 (Rupees One Hundred Eighty Three Crores Seventy Nine Lakhs Thirty Seven Thousand and Nine Hundred Eighty Six) plus the Nagari Project Consideration ("**Equity Consideration**"), subject to the adjustments as provided in Clause 4.2 below ("**Effective Purchase Price**"). The Sellers and the Purchaser agree and acknowledge that the Equity Consideration has been determined amongst the Purchaser and Seller I, basis the valuation assumptions provided in Schedule III of the SPA ("**Valuation Assumptions**"), the Valuation Date Accounts (in relation to MP Project and AP Project) and Nagari Valuation Date Accounts (in relation to the Nagari Project).

6.2 Clause 4.2.1 (*Effective Purchase Price*) appearing in the SPA shall stand amended and replaced as under:

4.2.1 The Effective Purchase Price to be paid by the Purchaser to Seller I for the transfer of all the Sale Shares by the Sellers to the Purchaser, shall be determined in the manner provided below:

**Effective Purchase Price = {Equity Consideration} + {Valuation Date Working Capital} + {Excluded Assets Sale Consideration} - {Unauthorised Expenses} + {APSPDCL Receivable Remittance} + {Outstanding Receivables} - {Valuation Assumption Adjustment} - {Punch List Items Adjustment} + {Second Closing Date BG Interest}**



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The Effective Purchase Price shall be subject to adjustments (including on account of any of Withholding Amounts and any BG Interest thereon, or any portion thereof) as provided in the SPA read with this Amendment Agreement.

7. **Amendments to Clause 5 (Payment Terms):**

7.1 Clause 5.7 (Withholding Amount III) of the SPA shall hereby stand amended and replaced as under:

**5.7 Withholding Amount III**

- (i) The Purchaser and Seller I agree that if any or both the MP BOCW Notice and the AP BOCW Notice are not finally adjudicated upon prior to the Second Closing Date, then the Purchaser shall be entitled to withhold the relevant portion of the Withholding Amount III (for the MP Project and/or the AP Project as may be applicable) from the Second Closing Date Payment. Seller I shall have the right to receive the Withholding Amount III from the Purchaser upon furnishing to the Purchaser, the BOCW Bank Guarantee. Within 2 (two) Business Days from the date of receipt of the BOCW Bank Guarantee from Seller I, the Purchaser shall remit an amount equal to the Withholding Amount III to the Seller I Designated Bank Account. The date on which the Purchaser remits the amount equal to BOCW Bank Guarantee to the Seller I Designated Bank Account for the purpose this sub-clause (i), hereinafter referred to as the "WA III Cash Funding Date".
- (ii) **AP BOCW Notice:** As soon as reasonably possible but not later than within 2 (Two) Business Days of the Joint Commissioner of Labour, Tirupati (or any other relevant Governmental Authority) passing/issuing a final assessment/order/judgment/directive against the Company, in relation to the AP BOCW Notice, requiring the Company to deposit or pay any amount due as arrears of BOCW Cess along with interest and/or penalty thereon, if any, ("AP BOCW Claim Amount") in relation to the AP Project, with or to any Governmental Authority or Person in full and final disposal of the AP BOCW Notice:
- (a) if the Purchaser has remitted the amount of Withholding Amount III (corresponding to AP BOCW Notice) to Seller I Designated Bank Account in accordance with Clause 5.7(i) above, Seller I shall, within 2 (Two) Business Days of receipt of written notice by the Purchaser in this regard, pay an amount equal to the AP BOCW Claim Amount to the Purchaser, along with interest at the rate of 12% (Twelve per cent) per annum calculated from the WA III Cash Funding Date till the date of payment of such amounts by Seller I to the Purchaser. Upon receipt of the AP BOCW Claim Amount along with applicable interest from Seller I, the Purchaser shall return the BOCW Bank Guarantee (corresponding to the AP BOCW Notice) to Seller I, within 2 (Two) Business Days of receipt thereof.

*Provided that,* if Seller I fails to pay the AP BOCW Claim Amount along with applicable interest to the Purchaser within the aforesaid 2 (two) Business Days' time period, the Purchaser shall be entitled to invoke the corresponding portion of the BOCW Bank Guarantee without any prior notice to Seller I. If the BOCW Bank Guarantee is not sufficient to make the Purchaser whole in respect of the AP BOCW Claim Amount and applicable interest thereon, the Purchaser shall be entitled to recover such deficit amounts from Seller I along with interest at the rate of 12% (Twelve per cent) per annum on such deficit amount calculated from the WA III Cash Funding Date till the date of payment of such amounts by Seller I to the Purchaser; and



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- (b) If Seller I has not furnished the BOCW Bank Guarantee (corresponding to the AP BOCW Notice) and the Purchaser has not remitted the Withholding Amount III to Seller I Designated Bank Account in accordance with Clause 5.7(i) above, an amount of Rs. 1,50,00,000 (Rupees One Crore Fifty Lakhs) (i.e. Withholding Amount III corresponding to the AP BOCW Notice) shall stand adjusted from the Equity Consideration and no amount shall be payable by the Purchaser to Seller I on account of adjustment of Withholding Amount III (corresponding to the AP BOCW Notice) from the Effective Purchase Price. If the AP BOCW Claim Amount is over and above the corresponding portion of the Withholding Amount III, the Purchaser shall be entitled to set off an amount equal to such excess AP BOCW Claim Amount payable by the Company from any remittance/payment of any other tranche or part of the Withholding Amounts payable by the Purchaser to Seller I, and if all other Withholding Amounts have already been paid by the Purchaser to Seller I in accordance with the terms hereof, Seller I shall be liable to forthwith pay an amount equal to the excess AP BOCW Claim Amount to the Purchaser, along with interest at the rate of 12% (Twelve Percent) per annum from the date such amount falls due by Seller I till the date of actual payment by Seller I. If the Withholding Amount III (corresponding to the AP BOCW Notice) is more than the AP BOCW Claim Amount, then the Purchaser shall remit to the Seller I Designated Bank Account, an amount equal to Rs. 1,50,00,000 (Rupees One Crore Fifty Lakhs) less the AP BOCW Claim Amount, within 2 (Two) Business Days of full and final disposal of the AP BOCW Notice.
- (iii) As soon as reasonably possible but not later than within 2 (Two) Business Days of the Joint Commissioner of Labour, Tirupati (or any other relevant Governmental Authority) passing/issuing a final assessment/order/judgment/directive in favour of the Company, in full and final disposal of the AP BOCW Notice, the Purchaser shall:
- (a) if Seller I has not furnished the BOCW Bank Guarantee (corresponding to the AP BOCW Notice) and the Purchaser has not remitted the Withholding Amount III to Seller I Designated Bank Account in accordance with Clause 5.7(i) above, remit an amount equal to Rs. 1,50,00,000 (Rupees One Crore Fifty Lakhs) to the Seller I Designated Bank Account; or
- (b) if the Purchaser has remitted the amount of Withholding Amount III (corresponding to AP BOCW Notice) to Seller I Designated Bank Account in accordance with Clause 5.7(i) above, return the BOCW Bank Guarantee (in relation to the AP BOCW Notice) to Seller I, as the case may be.
- (iv) **MP BOCW Notice:** As soon as reasonably possible but not later than within 2 (Two) Business Days of the Deputy Commissioner, Labour Department – Indore (or any other relevant Governmental Authority) passing/issuing a final assessment/ order/judgment/ directive against the Company, in relation to the MP BOCW Notice, requiring the Company to deposit or pay any amount due as arrears of BOCW Cess along with interest and/or penalty thereon, if any, ("MP BOCW Claim Amount") in relation to the MP Project, with or to any Governmental Authority or Person in full and final disposal of the MP BOCW Notice:
- (a) if the Purchaser has remitted the amount of Withholding Amount III (corresponding to MP BOCW Notice) to Seller I Designated Bank Account in accordance with Clause 5.7(i) above, Seller I shall, within 2 (Two) Business Days of receipt of written notice by the Purchaser in this regard, pay an amount equal to the MP BOCW Claim Amount to



the Purchaser, along with interest at the rate of 12% (Twelve per cent) per annum calculated from the WA III Cash Funding Date till the date of payment of such amounts by Seller I to the Purchaser. Upon receipt of the MP BOCW Claim Amount along with applicable interest from Seller I, the Purchaser shall return the BOCW Bank Guarantee (corresponding to the MP BOCW Notice) to Seller I, within 2 (Two) Business Days of receipt thereof.

*Provided that*, if Seller I fails to pay the MP BOCW Claim Amount along with applicable interest to the Purchaser within the aforesaid 2 (two) Business Days' time period, the Purchaser shall be entitled to invoke the corresponding portion of the BOCW Bank Guarantee without any prior notice to Seller I. If the BOCW Bank Guarantee is not sufficient to make the Purchaser whole in respect of the MP BOCW Claim Amount and applicable interest thereon, the Purchaser shall be entitled to recover such deficit amounts from Seller I along with interest at the rate of 12% (Twelve per cent) per annum on such deficit amount calculated from the WA III Cash Funding Date till the date of payment of such amounts by Seller I to the Purchaser; and

- (b) if Seller I has not furnished the BOCW Bank Guarantee (corresponding to the MP BOCW Notice) and the Purchaser has not remitted the Withholding Amount III to Seller I Designated Bank Account in accordance with Clause 5.7(i) above, an amount of Rs. 3,80,00,000 (Rupees Three Crores Eighty Lakhs) (i.e. Withholding Amount III corresponding to the MP BOCW Notice) shall stand adjusted from the Equity Consideration and no amount shall be payable by the Purchaser to Seller I on account of adjustment of Withholding Amount III (corresponding to the MP BOCW Notice) from the Effective Purchase Price. If the MP BOCW Claim Amount is over and above the corresponding portion of the Withholding Amount III, the Purchaser shall be entitled to set off an amount equal to such excess MP BOCW Claim Amount payable by the Company from any remittance/payment of any other tranche or part of the Withholding Amounts payable by the Purchaser to Seller I, and if all other Withholding Amounts have already been paid by the Purchaser to Seller I in accordance with the terms hereof, Seller I shall be liable to forthwith pay an amount equal to the excess MP BOCW Claim Amount to the Purchaser, along with interest at the rate of 12% (Twelve Percent) per annum from the date such amount falls due by Seller I till the date of actual payment by Seller I. If the Withholding Amount III (corresponding to the MP BOCW Notice) is more than the MP BOCW Claim Amount, then the Purchaser shall remit to the Seller I Designated Bank Account, an amount equal to Rs. 3,80,00,000 (Rupees Three Crores Eighty Lakhs) less the MP BOCW Claim Amount, within 2 (Two) Business Days of full and final disposal of the MP BOCW Notice.
- (v) As soon as reasonably possible but not later than within 2 (Two) Business Days of the Deputy Commissioner, Labour Department – Indore (or any other relevant Governmental Authority) passing/issuing a final assessment/order/judgment/directive in favour of the Company, in full and final disposal of the MP BOCW Notice, the Purchaser shall:
- (a) if Seller I has not furnished the BOCW Bank Guarantee (corresponding to the MP BOCW Notice) and the Purchaser has not remitted the Withholding Amount III to Seller I Designated Bank Account in accordance with Clause 5.7(i) above, remit an amount equal to Rs. 3,80,00,000 (Rupees Three Crores Eighty Lakhs) to the Seller I Designated Bank Account; or
- (b) if the Purchaser has remitted the amount of Withholding Amount III (corresponding to



MP BOCW Notice) to Seller I Designated Bank Account in accordance with Clause 5.7(i) above, return the BOCW Bank Guarantee (in relation to the MP BOCW Notice) to Seller I, as the case may be.

- (vi) The Purchaser and Seller I agree that if the final assessment/order/judgment/directive is issued/passed by the relevant Governmental Authority, in full and final disposal of any or both the BOCW Notices, and the BOCW Claim Amount in relation to AP Project and/or MP Project is over and above the corresponding portion of the Withholding Amount III, the Purchaser shall be entitled to set off an amount equal to such excess BOCW Claim Amount payable by the Company from any remittance/payment of any other tranche or part of the Withholding Amounts payable by the Purchaser to Seller I, and if all other Withholding Amounts have already been paid by the Purchaser to Seller I in accordance with the terms hereof, Seller I shall be liable to forthwith pay an amount equal to the excess BOCW Claim Amount to the Purchaser, along with interest at the rate of 12% (Twelve Percent) per annum from the date such amount falls due by Seller I till the date of actual payment by Seller I.
- (vii) Seller I agrees and acknowledges that in the event any or both the BOCW Notices are not finally adjudicated at least 7 (Seven) Business Days prior to the expiry of the BOCW Bank Guarantee, Seller I shall, at least 5 (Five) Business Days prior to the date of expiry of the BOCW Bank Guarantee, cause the extension of the validity of the BOCW Bank Guarantee by 3 (three) months, and provide necessary documents evidencing such extension to the Purchaser. The Purchaser and Seller I agree that the procedure mentioned herein under sub-clause (vii) shall be repeated by Seller I and the Purchaser till the final adjudication of the BOCW Notices in the manner envisaged under this Clause 5.7 of this Agreement. The Purchaser and Seller I further agree that if Seller I does not cause the extension of the validity of the BOCW Bank Guarantee, as provided under this sub-clause (vii), within the time prescribed, the Purchaser shall be entitled to invoke the BOCW Bank Guarantee, without any prior notice to Seller I, to recover the BOCW Bank Guarantee Amount; and Seller I shall be liable to pay to the Purchaser interest on such amount calculated at the rate of 12% (Twelve Percent) per annum from the WA III Cash Funding Date till the date of actual payment by Seller I to the Purchaser.
- (viii) It is clarified and the Purchaser hereby agrees and acknowledges that apart from the liability of payment of AP BOCW Claim Amount and MP BOCW Claim Amount by the Seller I to the Purchaser together with the interest applicable thereon in accordance with the abovementioned terms, the Seller I shall not have any other liability or responsibility whatsoever towards the Purchaser and subject to the foregoing the Purchaser shall, upon full and final adjudication of the AP BOCW Notice and MP BOCW Notice, not have any claim and accrued rights against the Seller I (in respect of the AP BOCW Claim Amount and the MP BOCW Claim Amount) apart from the entitlement to receive the payment of AP BOCW Claim Amount and MP BOCW Claim Amount together with the interest applicable thereon from the Seller I. It is also clarified that in the event an unfavourable order is received from the Joint Commissioner of Labour, Tirupati (or any other relevant Governmental Authority) in case of AP BOCW Notice and/or Deputy Commissioner, Labour Department, Indore (or any other relevant Governmental Authority) in case of MP BOCW Notice (as the case may be), the Seller I shall at its discretion be entitled to appeal to a higher authority against such order and the liability of the Seller I under the terms hereof to pay AP BOCW Claim Amount and/or MP BOCW Claim Amount (as the case may be) together with the interest applicable thereon, to the Purchaser, shall not arise until the claim with respect to AP BOCW Notice and/or MP BOCW Notice (as the case may be) is not finally adjudicated upon the full and final disposal of AP BOCW Notice and/or MP BOCW Notice (as the case may be) to the effect that either there no



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further appeal possible against the unfavorable order under the Applicable Law or the Seller I has elected not to file further appeal against such order. The Seller I shall provide all information to the Purchaser, in relation to the aforesaid proceedings, as may be required by the Purchaser, from time to time. The Seller I shall run the proceedings in respect of the AP BOCW Notice and MP BOCW Notice diligently and in good faith, and shall not make any settlement or compromise towards the same without consent of the Purchaser, which consent should not be unreasonably withheld or delayed. The Purchaser shall, in good faith, while evaluating the proposal to settle or compromise, give due regard to the business exigencies and overall implications on the business of the Company, and take decisions that are in the best interest of the Company. The Seller I shall take reasonable account of the views of the Purchaser prior to any admission, settlement or comprise in respect of the proceedings relating to AP BOCW Notice and MP BOCW Notice and in the event the Purchaser is not satisfied with the defence or the manner in which the proceedings are being run by the Seller I, then the Purchaser shall be entitled to suggest an alternative approach, which shall be considered by the Seller I in good faith.

However, in the event the Purchaser is required to by Applicable Law to make payment of the MP BOCW Claim Amount and/or AP BOCW Claim Amount (or any portion thereof), with or to any Governmental Authority or Person, before the full and final disposal of any such appeal filed by Seller I, then if the Purchaser has remitted the amount of Withholding Amount III (corresponding to AP BOCW Notice and/or MP BOCW Notice, as the case may be) to Seller I Designated Bank Account in accordance with Clause 5.7(i) above, the Purchaser shall have the right: (a) to require Seller I to make such payment forthwith to the relevant Governmental Authority or Person, (within the time prescribed under Applicable Law); or (b) if the payment has been made by the Purchaser to the relevant Governmental Authority or Person, require Seller I to pay such amount to the Purchaser not later than 2 (two) Business Days from the date of payment by the Purchaser to the relevant Governmental Authority or Person. If Seller I fails to make the payment of the aforesaid amounts to the Purchaser as provided hereinabove, the Purchaser shall have the right to invoke the BOCW Bank Guarantee and recover the AP BOCW Claim Amount and/or MP BOCW Claim Amount or any portion thereof (payable by Seller I to the Purchaser in accordance with the foregoing provisions), as the case may be, from Seller I in the manner prescribed in this Clause 5.7. It is hereby clarified that the Seller I shall be liable to pay to the Purchaser interest at the rate of 12% (twelve percent) per annum on the amounts deposited by the Company with a Governmental Authority as aforesaid, calculated from the WA III Cash Funding Date till the date such amount is deposited with the Governmental Authority. Further, the liability of the Seller I to pay such interest to the Purchaser shall accrue upon full and final adjudication of the proceedings related to the MP BOCW Notice and/or AP BOCW Notice (as the case may be).

- (ix) The Company and the Purchaser hereby further agrees and undertakes to provide all the requisite co-operation and assistance required by the Seller I with respect to running the abovementioned proceedings and claims in respect of AP BOCW Notice and MP BOCW Notice, including without limitation, issuing necessary authorizations, providing information and copies of any documents received by the Company in respect of abovementioned claims in respect of AP BOCW Notice and MP BOCW Notice, representation before the concerned Governmental Authorities.

7.2 After Clause 5.7 (Withholding Amount III) of the SPA, a new Clause 5.7A shall stand inserted as under:

**5.7A Nagari BOCW Withholding Amount**



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*Signature*



- (i) The Purchaser and Seller I agree that in the event the Nagari BOCW Notice is not finally adjudicated in favour of the Company prior to the Second Closing Date, the Purchaser shall be entitled to withhold Nagari BOCW Withholding Amount from the Second Closing Date Payment in accordance with the terms hereof. The Purchaser and Seller I agree that in the event such final assessment/order/judgment/directive is not passed in favour of the Company on or prior to March 31, 2019, the Seller I shall have the right to receive the Nagari BOCW Withholding Amount from the Purchaser upon furnishing to the Purchaser, the Nagari BOCW Bank Guarantee. Within 2 (two) Business Days from the date of receipt of the Nagari BOCW Bank Guarantee from Seller I, the Purchaser shall remit an amount equal to the Nagari BOCW Withholding Amount to the Seller I Designated Bank Account. The date on which the Purchaser remits the amount equal to Nagari BOCW Withholding Amount to the Seller I Designated Bank Account for the purpose this sub-clause (i), hereinafter referred to as the "Nagari Withholding Amount Funding Date".
- (ii) **Nagari BOCW Notice:** As soon as reasonably possible but not later than within 2 (Two) Business Days of the Joint Commissioner of Labour, Zone IV, Kurnool (or any other relevant Governmental Authority) passing/issuing a final assessment/order/judgment/directive against the Company, in relation to the Nagari BOCW Notice, requiring the Company to deposit or pay any BOCW Claim Amount with respect to Nagari BOCW Notice, along with interest and/or penalty thereon, if any, ("Nagari BOCW Claim Amount") in relation to the Nagari Project, with or to any Governmental Authority or Person in full and final disposal of the Nagari BOCW Notice:
- (a) if the Purchaser has remitted the amount of Nagari Withholding Amount (corresponding to Nagari BOCW Notice) to Seller I Designated Bank Account in accordance with Clause 5.7A(i) above, Seller I shall, within 2 (Two) Business Days of receipt of written notice by the Purchaser in this regard, pay an amount equal to the Nagari BOCW Claim Amount to the Purchaser, along with interest at the rate of 12% (Twelve per cent) per annum calculated from the Nagari Withholding Amount Funding Date till the date of payment of such amounts by Seller I to the Purchaser. Upon receipt of the Nagari BOCW Claim Amount along with applicable interest from Seller I, the Purchaser shall return the Nagari BOCW Bank Guarantee (corresponding to the Nagari BOCW Notice) to Seller I, within 2 (Two) Business Days of receipt thereof.

*Provided that, if Seller I fails to pay the Nagari BOCW Claim Amount along with applicable interest to the Purchaser within the aforesaid 2 (two) Business Days' time period, the Purchaser shall be entitled to invoke the corresponding portion of the Nagari BOCW Bank Guarantee without any prior notice to Seller I. If the Nagari BOCW Bank Guarantee is not sufficient to make the Purchaser whole in respect of the Nagari BOCW Claim Amount and applicable interest thereon, the Purchaser shall be entitled to recover such deficit amounts from Seller I along with interest at the rate of 12% (Twelve per cent) per annum on such deficit amount calculated from the Nagari Withholding Amount Funding Date till the date of payment of such amounts by Seller I to the Purchaser; and*

- (b) if Seller I has not furnished the Nagari BOCW Bank Guarantee (corresponding to the Nagari BOCW Notice) and the Purchaser has not remitted the Nagari Withholding Amount to Seller I Designated Bank Account in accordance with Clause 5.7A(i) above, an amount equal to the Nagari Withholding Amount shall stand adjusted from the Effective Purchase Price and no amount shall be payable by the Purchaser to Seller I on



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account of adjustment of Nagari Withholding Amount from the Effective Purchase Price. If the Nagari BOCW Claim Amount is over and above the corresponding portion of the Nagari Withholding Amount, the Purchaser shall be entitled to set off an amount equal to such excess Nagari BOCW Claim Amount payable by the Company from any remittance/payment of any other tranche or part of the Withholding Amounts payable by the Purchaser to Seller I, and if all other Withholding Amounts have already been paid by the Purchaser to Seller I in accordance with the terms hereof, Seller I shall be liable to forthwith pay an amount equal to the excess Nagari BOCW Claim Amount to the Purchaser, along with interest at the rate of 12% (Twelve Percent) per annum from the date such amount falls due by Seller I till the date of actual payment by Seller I. If the Nagari Withholding Amount is more than the Nagari BOCW Claim Amount, then the Purchaser shall remit to the Seller I Designated Bank Account, an amount equal to Nagari Withholding Amount less the Nagari BOCW Claim Amount, within 2 (Two) Business Days of full and final disposal of the Nagari BOCW Notice.

- (iii) As soon as reasonably possible but not later than within 2 (Two) Business Days of the Joint Commissioner of Labour, Zone IV, Kurnool (or any other relevant Governmental Authority) passing/issuing a final assessment/order/judgment/directive in favour of the Company, in full and final disposal of the Nagari BOCW Notice, the Purchaser shall:
- (a) if Seller I has not furnished the Nagari BOCW Bank Guarantee and the Purchaser has not remitted the Nagari Withholding Amount to Seller I Designated Bank Account in accordance with Clause 5.7A(i) above, remit an amount equal to the Nagari Withholding Amount to the Seller I Designated Bank Account; or
  - (b) if the Purchaser has remitted the amount of Nagari Withholding Amount to Seller I Designated Bank Account in accordance with Clause 5.7A (i) above, return the Nagari BOCW Bank Guarantee to Seller I, as the case may be.
- (iv) The Purchaser and Seller I agree that if the final assessment/order/judgment/directive is issued/passed by the relevant Governmental Authority, in full and final disposal of Nagari BOCW Notice, and the Nagari BOCW Claim Amount in relation to Nagari Project is over and above the corresponding portion of the Nagari Withholding Amount, the Purchaser shall be entitled to set off an amount equal to such excess Nagari BOCW Claim Amount payable by the Company from any remittance/payment of any other tranche or part of the Nagari Withholding Amount payable by the Purchaser to Seller I, and if all other Withholding Amounts have already been paid by the Purchaser to Seller I in accordance with the terms hereof, Seller I shall be liable to forthwith pay an amount equal to the excess Nagari BOCW Claim Amount to the Purchaser, along with interest at the rate of 12% (Twelve Percent) per annum from the date such amount falls due by Seller I till the date of actual payment by Seller I.
- (v) Seller I agrees and acknowledges that in the event Nagari BOCW Notice is not finally adjudicated at least 7 (Seven) Business Days prior to the expiry of the Nagari BOCW Bank Guarantee, Seller I shall, at least 5 (Five) Business Days prior to the date of expiry of the Nagari BOCW Bank Guarantee, cause the extension of the validity of the Nagari BOCW Bank Guarantee by 1 (One) year, and provide necessary documents evidencing such extension to the Purchaser. The Purchaser and Seller I agree that the procedure mentioned herein under sub-clause (v) shall be repeated by Seller I and the Purchaser till the final adjudication of the Nagari BOCW Notice in the manner envisaged under this Clause 5.7A of this Agreement. The Purchaser and Seller I further agree that if Seller I does not cause the extension of the validity



of the Nagari BOCW Bank Guarantee, as provided under this sub-clause (v), within the time prescribed, the Purchaser shall be entitled to invoke the Nagari BOCW Bank Guarantee, without any prior notice to Seller I, to recover the Nagari BOCW Bank Guarantee Amount; and Seller I shall be liable to pay to the Purchaser interest on such amount calculated at the rate of 12% (Twelve Percent) per annum from the Nagari Withholding Amount Funding Date till the date of actual payment by Seller I to the Purchaser.

- (vi) It is clarified and the Purchaser hereby agrees and acknowledges that apart from the liability of payment of Nagari BOCW Claim Amount by the Seller I to the Purchaser together with the interest applicable thereon in accordance with the abovementioned terms, the Seller I shall not have any other liability or responsibility whatsoever towards the Purchaser and subject to the foregoing the Purchaser shall, upon full and final adjudication of the Nagari BOCW Notice, not have any claim and accrued rights against the Seller I (in respect of the Nagari BOCW Claim Amount) apart from the entitlement to receive the payment of Nagari BOCW Claim Amount together with the interest applicable thereon from the Seller I. It is also clarified that in the event an unfavourable order is received from the Joint Commissioner of Labour, Zone IV, Kurnool (or any other relevant Governmental Authority) in case of Nagari BOCW Notice in case of Nagari BOCW Notice, the Seller I shall at its discretion be entitled to appeal to a higher authority against such order and the liability of the Seller I under the terms hereof to pay Nagari BOCW Claim Amount together with the interest applicable thereon to the Purchaser, shall not arise until the claim with respect to Nagari BOCW Notice is not finally adjudicated upon the full and final disposal of Nagari BOCW Notice to the effect that either there no further appeal possible against the unfavourable order under the Applicable Law or the Seller I has elected not to file further appeal against such order. The Seller I shall provide all information to the Purchaser, in relation to the aforesaid proceedings, as may be required by the Purchaser, from time to time. The Seller I shall run the proceedings in respect of the Nagari BOCW Notice diligently and in good faith, and shall not make any settlement or compromise towards the same without consent of the Purchaser, which consent should not be unreasonably withheld or delayed. The Purchaser shall, in good faith, while evaluating the proposal to settle or compromise, give due regard to the business exigencies and overall implications on the business of the Company, and take decisions that are in the best interest of the Company. The Seller I shall take reasonable account of the views of the Purchaser prior to any admission, settlement or comprise in respect of the proceedings relating to Nagari BOCW Notice and in the event the Purchaser is not satisfied with the defence or the manner in which the proceedings are being run by the Seller I, then the Purchaser shall be entitled to suggest an alternative approach, which shall be considered by the Seller I in good faith.

However, in the event the Purchaser is required to by Applicable Law to make payment of the Nagari BOCW Claim Amount and (or any portion thereof), with or to any Governmental Authority or Person, before the full and final disposal of any such appeal filed by Seller I, then if the Purchaser has remitted the amount of Nagari BOCW Withholding Amount to Seller I Designated Bank Account in accordance with Clause 5.7A(i) above, the Purchaser shall have the right: (a) to require Seller I to make such payment forthwith to the relevant Governmental Authority or Person, (within the time prescribed under Applicable Law); or (b) if the payment has been made by the Purchaser to the relevant Governmental Authority or Person, require Seller I to pay such amount to the Purchaser not later than 2 (two) Business Days from the date of payment by the Purchaser to the relevant Governmental Authority or Person. If Seller I fails to make the payment of the aforesaid amounts to the Purchaser as provided hereinabove, the Purchaser shall have the right to invoke the Nagari BOCW Bank Guarantee and recover the Nagari BOCW Claim Amount or any portion thereof (payable by Seller I to the Purchaser in accordance with the foregoing provisions), as the case may be, from Seller I in the manner



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prescribed in this Clause 5.7A. It is hereby clarified that the Seller I shall be liable to pay to the Purchaser interest at the rate of 12% (twelve percent) per annum on the amounts deposited by the Company with a Governmental Authority as aforesaid, calculated from the Nagari Withholding Amount Funding Date till the date such amount is deposited with the Governmental Authority. Further, the liability of the Seller I to pay such interest to the Purchaser shall accrue upon full and final adjudication of the proceedings related to the Nagari BOCW Notice.

- (vii) The Company and the Purchaser hereby further agrees and undertakes to provide all the requisite co-operation and assistance required by the Seller I with respect to running the abovementioned proceedings and claim in respect of Nagari BOCW Notice, including without limitation, issuing necessary authorizations, providing information and copies of any documents received by the Company in respect of abovementioned claims in respect of Nagari BOCW Notice, representation before the concerned Governmental Authorities.

7.3 After Clause 5.7A of the SPA, a new Clause 5.7B shall stand inserted as under:

**5.7B Nagari Land Withholding Amount**

- (i) Seller I agrees and the Purchaser acknowledges that the Company is in possession of and use of land situated at village O. G. Kuppam, District Chittoor, bearing Sy. No. 158/2 and 165 admeasuring 3 (three) acres, for the purposes of Nagari Project, which land is currently in the name of the Governmental Authority and not in the name of the Company ("Nagari Government Land"). The Company has made the Nagari Land Application to the Government of Andhra Pradesh to use and transfer the title to the said Nagari Government Land to the Company in exchange of land situated at village O. G. Kuppam, District Chittoor, bearing Survey No. 168/A admeasuring 3 (three) acres to the Government of Andhra Pradesh, which application is currently pending disposal by the Government of Andhra Pradesh.
- (ii) The Parties agree that, during the pendency of the Nagari Land Application in respect to Nagari Government Land referred to in sub-clause (i) above, the Purchaser shall have the right to withhold an amount equal to Rs. 1,00,00,000 (Rupees One crore only) from the Second Closing Date Payment ("Nagari Land Withholding Amount").
- (iii) Upon passing/issuing a final order/judgment/directive in full and final disposal of the Nagari Land Application against the Company by the relevant Governmental Authority, Seller I agrees and undertakes to shift the solar modules (along with requisite infrastructure) situated at the Nagari Government Land to the land situated at village O. G. Kuppam, District Chittoor, bearing Survey No. 168/A admeasuring 3 (three) acres, at the cost and expenses of Seller I, within 30 (thirty) days of passing of the aforesaid final order/judgment/directive (or such shorter period as may be provided under such order/judgment/directive), such that after shifting of the solar modules and requisite infrastructure, the DC capacity of the Nagari Project shall not be less than 29.7MW. Within 2 (two) Business Days of completion of the shifting as aforesaid by Seller I to the said prescribed land, the Purchaser shall release to the Seller I Designated Bank Account, an amount equal to the Nagari Land Withholding Amount less (a) any costs/expenses incurred by the Company in respect of: (I) the Nagar Land Application; and (II) shifting of the solar modules (and requisite infrastructure) to the prescribed land; (b) generation losses incurred by the Company during the shifting process as determined by the Purchaser (if any).

If the Nagari Land Withholding Amount is not sufficient to make the Purchaser whole in



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respect of the: (a) any costs/expenses incurred by the Company in respect of: (I) the Nagari Land Application; and (II) shifting of the solar modules (and requisite infrastructure) to the prescribed land; (b) generation losses incurred by the Company during the shifting process as determined by the Purchaser (if any), the Purchaser shall be entitled to recover such deficit amounts from Seller I along with interest at the rate of 12% (Twelve per cent) per annum calculated from the date of completion of shifting of the solar modules (along with requisite infrastructure) till the date of actual payment to the Purchaser.

- (iv) Upon passing/issuing a final a final order/judgment/directive in full and final disposal of the Nagari Land Application in favour of the Company by the relevant Governmental Authority, the Purchaser shall remit to Seller I Designated Bank Account, the Nagari Land Withholding Amount *less* any costs/expenses incurred by the Company in respect of the Nagari Land Application, within 2 (Two) Business Days of full and final disposal of the Nagari Land Application.
- (v) It is clarified and the Purchaser hereby agrees and acknowledges that apart from the liability of payment of Nagari Land Withholding Amount by the Seller I to the Purchaser together with the interest applicable thereon in accordance with the abovementioned terms, the Seller I shall not have any other liability or responsibility whatsoever towards the Purchaser and subject to the foregoing the Purchaser shall, upon full and final adjudication of the Nagari Land Application, not have any claim and accrued rights against the Seller I apart from the entitlement to receive the payment of Nagari Land Withholding Amount together with the interest applicable thereon from the Seller I in respect of the Nagari Land Application. It is also clarified that in the event an unfavourable order is received from the relevant Governmental Authority in case of Nagari Land Application, the Seller I shall at its discretion be entitled to appeal to a higher authority against such order and the liability of the Purchaser under the terms hereof to pay Nagari Land Withholding Amount (less (a) any costs/expenses incurred by the Company in respect of: (I) the Nagari Land Application; and (II) shifting of the solar modules (and requisite infrastructure) to the prescribed land; (b) generation losses incurred by the Company during the shifting process as determined by the Purchaser (if any); to Seller I, shall not arise until the Nagari Land Application is not finally adjudicated upon the full and final disposal of Nagari Land Application to the effect that either there no further appeal possible against the unfavorable order under the Applicable Law or the Seller I has elected not to file further appeal against such order. The Seller I shall provide all information to the Purchaser, in relation to the aforesaid proceedings, as may be required by the Purchaser, from time to time. The Seller I shall run the proceedings in respect of the Nagari Land Application diligently and in good faith, and shall not make any settlement or compromise towards the same without consent of the Purchaser, which consent should not be unreasonably withheld or delayed. The Purchaser shall, in good faith, while evaluating the proposal to settle or compromise, give due regard to the business exigencies and overall implications on the business of the Company, and take decisions that are in the best interest of the Company. The Seller I shall take reasonable account of the views of the Purchaser prior to any admission, settlement or comprise in respect of the proceedings relating to Nagari Land Application and in the event the Purchaser is not satisfied with the defence or the manner in which the proceedings are being run by the Seller I, then the Purchaser shall be entitled to suggest an alternative approach, which shall be considered by the Seller I in good faith.
- (vi) The Company and the Purchaser hereby further agrees and undertakes to provide all the requisite co-operation and assistance required by the Seller I with respect to running the abovementioned proceedings and claims in respect of Nagari Land Application, including without limitation, issuing necessary authorizations, providing information and copies of any



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documents received by the Company in respect of abovementioned claims in respect of Nagari Land Application, representation before the concerned Governmental Authorities.

7.4 After Clause 5.7B of the SPA, a new Clause 5.7C shall stand inserted as under:

**5.7C Incomplete CP Items Bank Guarantee:**

- (i) The Parties acknowledge that as on the Execution Date of this Amendment Agreement, Seller I and/or the Company (wherever applicable) have not completed the conditions listed at paragraphs 5, 13, 17 and 18 of Part B of Schedule V of the SPA ("Incomplete CP Items"). Pursuant to Clause 6.1.2 and Clause 6.2.2 of the SPA, the Purchaser has agreed to waive the Incomplete CP Items to be completed by Seller I as Second Tranche Conditions Subsequent to be completed by Seller I on or prior to March 31, 2019 (or such other later date as mutually agreed between the Seller I and the Purchaser in writing).
- (ii) The Parties agree that the Purchaser has the right to withhold the Incomplete CP Items Amount from the Second Closing Date Payment against completion of the Incomplete CP Items by Seller I. Seller I shall have the right to receive the Incomplete CP Items Amount from the Purchaser upon furnishing the Incomplete CP Items Bank Guarantee to the Purchaser. Within 2 (two) Business days from the date of receipt of the Incomplete CP Items Bank Guarantee from Seller I, the Purchaser shall remit an amount equal to the Incomplete CP Items Amount to the Seller I Designated Bank Account.
- (iii) Seller I shall duly complete and satisfy (to the satisfaction of the Purchaser, acting reasonably) the Incomplete CP Items and provide a written confirmation (along with documentary evidence) of satisfaction of the same in the form and substance satisfactory to the Purchaser, acting reasonably ("Completion Notice") within the time period prescribed under Clause 5.7C(i) above. Any costs or expenses incurred by the Company in relation to the completion of the Incomplete CP Items shall be borne by Seller I, or reimbursed by Seller I to the Company from time to time, as the case may be.
- (iv) The Purchaser, if reasonably satisfied with the Completion Notice issued by Seller I, the Purchaser shall within 2 (Two) Business Days of acceptance of the Completion Notice: (i) if the Incomplete CP Items Amount has not been remitted to Seller I as per Clause 5.7C(ii) above, remit an amount equal to the Incomplete CP Items Amount to the Seller I Designated Bank Account; or (ii) if Seller I has furnished the Incomplete CP Items Bank Guarantee to the Purchaser against payment of the Incomplete CP Items Amount as per Clause 5.7C(ii) above, release the Incomplete CP Items Bank Guarantee to Seller I, as the case may be.

*Provided that, if the Incomplete CP Items are not completed by Seller I to the reasonable satisfaction of the Purchaser within the time prescribed in Clause 5.7C(i) above and/or the Purchaser is not reasonably satisfied with the Completion Notice, then:*

- (a) if Seller I has not furnished the Incomplete CP Items Bank Guarantee to the Purchaser and the Incomplete CP Items Amount has not been remitted to Seller I as per Clause 5.7C(ii) above, the Purchaser shall have the right to adjust the same from the Equity Consideration, and no amount shall be payable by the Purchaser to Seller I on account of Incomplete CP Items Amount; and
- (b) if the Purchaser has paid the Incomplete CP Items Amount to Seller I against the Incomplete CP Items Bank Guarantee as per Clause 5.7C(ii) above, Seller I shall remit



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an amount equal to the Incomplete CP Items Amount to the Purchaser Designated Bank Account within 2 (Two) Business Days of written notice from the Purchaser in this regard, along with interest thereon, calculated at the rate of 12% (twelve percent) per annum, from the date the Purchaser paid the Incomplete CP Items Amount to Seller I pursuant to Clause 5.7C(ii) above, till the date of payment of such amount by Seller I to the Purchaser.

*Provided that* if Seller I fails to remit the Incomplete CP Items Amount along with applicable interest thereon within aforesaid 2 (Two) Business Days: (a) the Purchaser shall have the right to invoke the Incomplete CP Items Bank Guarantee without any further notice to Seller I; and (b) Seller I shall, within 2 (Two) days from the date of invocation of the Incomplete CP Items Bank Guarantee by the Purchaser, remit to the Purchaser the applicable interest on the Incomplete CP Items Amount (i.e. interest calculated at the rate of 12% (twelve percent) per annum, from the date the Purchaser paid the Incomplete CP Items Amount to Seller I pursuant to Clause 5.7C(ii) above, till the date of payment to the Purchaser). If Seller I fails to remit such interest amount to the Purchaser within the aforesaid time period, the Purchaser shall also have the right to set-off such amount from any remittance/payment of any other tranche or part of the Withholding Amounts that remain payable by the Purchaser to Seller I. Seller I agrees that upon the invocation of the Incomplete CP Items Bank Guarantee by the Purchaser pursuant to this Clause 5.7C(iv), Seller I shall have no claim against the Purchaser for the amount of the Incomplete CP Items Bank Guarantee.

- (v) It is clarified and the Purchaser hereby agrees and acknowledges that apart from the liability of payment of Incomplete CP Items Amount by the Seller I to the Purchaser together with the interest applicable thereon in accordance with the abovementioned terms, the Seller I shall not have any other liability or responsibility whatsoever towards the Purchaser and subject to the foregoing the Purchaser shall not have any claim and accrued rights against the Seller I in this regard apart from the entitlement to receive the payment of Incomplete CP Items Amount together with the interest applicable thereon from the Seller I.
- (vi) The Company and the Purchaser hereby further agrees and undertakes to provide all the requisite co-operation and assistance required by the Seller I with respect to fulfilment of the Incomplete CP Items.

7.5 After Clause 5.7C of the SPA, a new Clause 5.7D shall stand inserted as under:

**5.7D Diligence Withholding Amount**

- (i) Seller I and the Purchaser shall agree that payment of the Diligence Withholding Amount, with or without adjustments (as the case may be), shall be made in the manner envisaged in this Clause 5.7D.
- (ii) Seller I and the Purchaser shall agree that post the Second Closing Date but not later than the Diligence Withholding Amount Payment Date:
- (a) The Purchaser shall complete the financial due diligence of the Nagari Project and the Company to the satisfaction of the Purchaser (acting reasonably); and
- (b) Seller I shall complete and satisfy (to the satisfaction of the Purchaser, acting reasonably), each of the actions and conditions set forth in **Part C of Schedule VIII** of



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the SPA ("Nagari Project Conditions Subsequent") and provide a written confirmation (along with documentary evidence) of satisfaction of the same in the form and substance satisfactory to the Purchaser (acting reasonably) ("Nagari CS Completion Certificate").

- (ii) The Purchaser shall, upon receipt of the Nagari CS Completion Certificate and upon completion of the financial due diligence, as aforesaid, share the finding of the financial due diligence exercise with Seller I, and
- (a) if there are no adjustments to be made from the Nagari Diligence Withholding Amount on account of findings of the financial due diligence or any of the Nagari Project Conditions Subsequent remaining unfulfilled, the Purchaser shall remit an amount equal to the Nagari Diligence Withholding Amount to Seller I Designated Bank Account; or
  - (b) if there are adjustments to be made from the Nagari Diligence Withholding Amount or any additional indemnities are required on account of findings of the financial due diligence or any of the Nagari Project Conditions Subsequent remaining unfulfilled, the Purchaser shall provide its statement of adjustments to be made to the Nagari Closing Accounts Withholding Amount ("Adjustment Statement");
- (iv) If the Purchaser issues an Adjustment Statement pursuant to Clause 5.7D(iii)(b) above, within 2 (two) days of receipt of the Adjustment Statement, Seller I shall:
- (a) if it has no objections to the Adjustment Statement, issue an acceptance / confirmation notice to the Purchaser and adjustments shall be made from the Nagari Diligence Withholding Amount as per the Adjustment Statement provided by the Purchaser; or
  - (b) if it has any objections to the Adjustment Statement, issue a notice to that effect to the Purchaser along with its proposed Adjustment Statement. Upon issuance of such objection notice by Seller I, within 2 (Two) days of receipt of such notice by the Purchaser from Seller I, the Purchaser and Seller I shall endeavour to mutually agree in good faith on the Adjustment Statement.
- (v) In the event the Purchaser and Seller I are unable to agree on the Adjustment Statement in accordance with Clause 5.7D(iv)(b) above, the Purchaser and Seller I shall, within 5 (five) Business Days thereafter, mutually appoint any of the Big 5 Accounting Firms to verify the findings of the financial due diligence exercise and the adjustments proposed under the Adjustment Statement. The Adjustment Statement issued by the Big 5 Accounting Firm appointed under this sub-clause shall be deemed final and accepted by both the Seller I and Purchaser and adjustments shall be made from the Diligence Withholding Amount in accordance therewith. The Purchaser shall remit an amount equal to the Nagari Diligence Withholding Amount *reduced by* the amount to be adjusted therefrom as provided in the Adjustment Statement issued by the Big 5 Accounting Firm, to the Seller I Designated Bank Account. The balance amount of the Nagari Diligence Withholding Amount shall stand adjusted from the Effective Purchase Price and no amount shall be payable by the Purchaser to Seller I on account of such adjusted amount.
- (vi) The Parties agree that the activities mentioned in this Clause 5.7D will be completed by the Parties at least 2 (Two) days prior to the Diligence Withholding Amount Payment Date, to arrive at the adjustments to be made from the Equity Consideration. The Parties shall cause



their respective representatives to cooperate and assist each other in the completion of the Nagari Project Conditions Subsequent and the financial due diligence of the Nagari Project and the Company in accordance with this Clause 5.7D.

7.6 After Clause 5.7D of the SPA, a new Clause 5.7E shall stand inserted as under:

**5.7E Generation Loss Withholding Amount**

- (i) Seller I agrees that an amount equal to Rs. 4,45,00,000 (Rupees Four Crores Forty Five Lakhs), forming a part of the Second Closing Date Payment shall be withheld by the Purchaser on account of generation loss / MLOP (i.e. machinery loss of profits) due to breakdown of transformer of the AP Project and shall be paid in the following manner ("**Generation Loss Withholding Amount**"). The Parties agree and acknowledge that an insurance claim has been filed by the Company with the concerned insurance company in respect of the recovery of the Generation Loss Withholding Amount and the said claim as on the date hereof is pending.
- (ii) The Parties agree that the Seller I and the Company shall jointly make an application to the concerned insurance company that in the event the aforesaid insurance claim filed by the Company in respect of the Generation Loss Withholding Amount, is approved by the concerned insurance company, then any amounts recovered from the said insurance company upon full and final settlement of the insurance claim relating to the Generation Loss Withholding Amount shall be directly remitted to the Second Closing Escrow Bank Account. The Seller I and the Company agree and undertake to co-operate with each other and shall take all actions as may be required for approval of the aforesaid application by the concerned insurance company.
- (iii) As soon as reasonably possible but not later than within 2 (Two) Business Days of the full and final settlement of the insurance claim relating to the Generation Loss Withholding Amount, if any part of the Generation Loss Withholding Amount is subsequently recovered by the Company from the insurance agency and the said amount is remitted to the Second Closing Escrow Bank Account in accordance with the above, the Escrow Agent II shall, upon the expiry of 2 (Two) Business Days from the date of the receipt of the abovementioned amount in the Second Closing Escrow Bank Account from the insurance company, release: (i) an amount equal to such recovered amount after deducting the costs/expenses incurred by the Company at actuals in relation to recovery of the insurance proceeds ("**Recovered Amount**") to the Seller I Designated Bank Account.
- (iv) As soon as reasonably possible but not later than within 2 (Two) Business Days of the full and final settlement of the insurance claim relating to the Generation Loss Withholding Amount, if no amount is recovered by the Company from the insurance agency, the Company shall notify the Seller I and the Escrow Agent II of the same.
- (v) The Second Closing Escrow Agreement shall stand terminated in accordance with its terms.
- (vi) It is clarified and the Purchaser hereby agrees and acknowledges that apart from the adjustment of the Generation Loss Withholding Amount or any portion thereof from the Effective Purchase Price on account of non-recovery of the amounts from the abovementioned insurance claim, the Seller I shall not have any other liability or responsibility whatsoever towards the Purchaser and subject to the foregoing the Purchaser shall not have any claim and accrued rights against the Seller I apart from the entitlement to adjust the Generation Loss Withholding Amount from the Effective Purchase Price in this regard.





- (vii) The Company and the Purchaser hereby further agrees and undertakes to provide all the requisite co-operation and assistance required by the Seller I with respect to running the abovementioned proceedings and insurance claims in respect of the abovementioned Generation Loss Withholding Amount, including without limitation, issuing necessary authorizations, providing information and copies of any documents received by the Company in respect of abovementioned claim, representation before the concerned insurance company etc.

7.7 After Clause 5.7E of the SPA, a new Clause 5.7F shall stand inserted:

**5.7F AP Project LD Withholding Amount**

- (i) Seller I agrees and acknowledges that pursuant to letter no. CGM/ Projects&IPC/ GM/ IPC/ DE-II /F.waaneep/D.No. 381/18, dated December 18, 2018 ("AP Project LD Notice"), APSPDCL has claimed an amount of Rs. 18,74,70,000 (Rupees Eighteen Crores Seventy Four Lakhs Seventy Thousand) as liquidated damages under the AP Project PPA on account of delay in commissioning of the AP Project from the stipulated scheduled commercial operation date ("AP Project Liquidated Damages Claim Amount"), which shall be collected from the Company from the monthly invoices raised by the Company on APSPDCL on account of sale of power by the Company to APSPDCL.
- (ii) Seller I and the Purchaser hereby agree that out of the AP Project Liquidated Damages Claim Amount: (a) an amount of Rs. 6,74,70,000 (Rupees Six Crores Seventy Four Lakhs Seventy Thousand) shall be withheld by the Purchaser from the Second Closing Date Payment ("AP Project LD Withholding Amount") and remitted to the Second Closing Escrow Bank Account within 2 (two) Business Days from the date of opening of the Second Closing Escrow Bank Account; and (b) an amount of Rs. 12,00,00,000 (Rupees Twelve Crores) shall be paid by the Purchaser to Seller I, within 2 (Two) Business Days of Seller I furnishing to the Purchaser the Liquidated Damages BG.
- (iii) In the event any amount on account of the AP Project LD Notice: (a) becomes payable by the Company to APSPDCL and/or any other Governmental Authority; and/or (b) is recovered from the Company from receivables of the Company against invoices raised by the Company for power sold to APSPDCL, ("Liquidated Damages Claim Amount"), such Liquidated Damages Claim Amount shall stand adjusted from the Equity Consideration as follows:
- (a) Within 2 (two) Business Days of any demand for payment, or recovery being made from the Company (as the case may be), of the Liquidated Damages Claim Amount, the Purchaser shall notify Seller I of the same in writing;
- (b) If the Purchaser has released an amount of Rs. 12,00,00,000 (Rupees Twelve Crores) to Seller I against the Liquidated Damages BG, then: (I) if the Liquidated Damages Claim Amount is equal to or less than the AP Project LD Withholding Amount, the Liquidated Damages Claim Amount shall stand adjusted from the Equity Consideration and the Purchaser shall, within 2 (two) Business Days from the date of notification under sub-clause (a) above: (i) notify the Escrow Agent II to release an amount equal to the AP Project LD Withholding Amount less the Liquidated Damages Claim Amount, if any to the Seller I Designated Bank Account together with BG Interest calculated on such amount for the period commencing January 1, 2019, until the date of payment ("LD BG Interest Amount") and release the balance amount from the AP Project LD



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Withholding Amount to the Purchaser Designated Bank Account and the Escrow Agent shall within 2 Business Days from the aforesaid notification release the said funds accordingly; (ii) release the Liquidated Damages BG; and (II) if the Liquidated Damages Claim Amount is higher than the AP Project LD Withholding Amount, then the AP Project LD Withholding Amount shall stand adjusted from the Equity Consideration and: (i) the Purchaser shall, within 2 (two) Business Days from the date of notification under sub-clause (a) above notify the Escrow Agent II to release the AP Project LD Withholding Amount to the Purchaser Designated Bank Account and the Escrow Agent II shall within 2 Business Days from such notification by the Purchaser release the funds accordingly; and (ii) Seller I shall, within 2 (two) Business Days from the date of notification by the Purchaser under sub-clause (a) above, remit to the Purchaser an amount equal to Liquidated Damages Claim Amount *less* the AP Project LD Withholding Amount along with interest thereon calculated at the rate of 12% (twelve percent) per annum, from the date the Purchaser paid an amount of Rs. 12,00,00,000 (Rupees Twelve Crores) to Seller I under Clause 5.7F(ii) above till the date of payment ("LD Shortfall Amount"). If Seller I fails to remit such amount to the Purchaser within the prescribed time period, the Purchaser shall be entitled to invoke the Liquidated Damages BG without any further notice to Seller I. If the Liquidated Damages BG is not sufficient to make the Purchaser whole in respect of the Liquidated Damages Claim Amount and applicable interest thereon, the Purchaser shall be entitled to recover such deficit amounts from Seller I along with interest at the rate of 12% (Twelve per cent) per annum. If Seller I makes the payment of the LD Shortfall Amount to the Purchaser in accordance with the foregoing, the Purchaser shall within 2 Business Days of the receipt of the aforesaid payment release the Liquidated Damages BG to the Seller I; and

- (c) If Seller I does not furnish the Liquidated Damages BG and consequently the Purchaser has not released an amount of Rs. 12,00,00,000 (Rupees Twelve Crores) to Seller I as per Clause 5.7F(ii) above, then: (I) if the Liquidated Damages Claim Amount is equal to or less than the AP Project LD Withholding Amount, the Liquidated Damages Claim Amount shall stand adjusted from the Equity Consideration and the Purchaser shall, within 2 (two) Business Days from the date of notification under sub-clause (a) above: (i) notify the Escrow Agent II to release an amount equal to the AP Project LD Withholding Amount *less* the Liquidated Damages Claim Amount, if any to the Seller I Designated Bank Account together with LD BG Interest Amount and release the balance amount from the AP Project LD Withholding Amount to the Purchaser Designated Account and the Escrow Agent shall within 2 Business Days from the aforesaid notification release the said funds accordingly; and (II) if the Liquidated Damages Claim Amount is higher than the AP Project LD Withholding Amount, then the Liquidated Damages Claim Amount shall stand adjusted from the Equity Consideration and the Purchaser shall, within 2 (two) Business Days from the date of notification under sub-clause (a) above: (i) notify the Escrow Agent II to release the AP Project LD Withholding Amount to the Purchaser Designated Account and the Escrow Agent II shall within 2 Business Days from such notification by the Purchaser release the funds accordingly; and (ii) release to Seller I Designated Bank Account, an amount equal to AP Project Liquidated Damages Claim Amount *less* the Liquidated Damages Claim Amount.
- (iv) In the event upon final settlement of the AP Project LD Notice in favour of the Company, such that no amount is payable by, or recoverable from, the Company in relation to the AP Project Liquidated Damages Claim Amount, the Purchaser shall, within 2 (two) Business Days from



the date of full and final settlement of the proceedings:

- (a) if Seller I does not furnish the Liquidated Damages BG and consequently the Purchaser has not released an amount of Rs. 12,00,00,000 (Rupees Twelve Crores) to Seller I as per Clause 5.7F(ii) above, the Purchaser shall within 2 Business Days from the final settlement of the proceedings: (i) notify the Escrow Agent II to remit to Seller I Designated Bank Account, an amount equal to AP Project LD Withholding Amount and the Escrow Agent II shall remit the funds accordingly (ii) remit an amount to the Seller I Designated Bank Account, aggregating to Rs. 12,00,00,000 (Rupees Twelve Crores) together with the BG Interest on the AP Project LD Withholding Amount; or
- (b) if the Purchaser has released an amount of Rs. 12,00,00,000 (Rupees Twelve Crores) to Seller I against the Liquidated Damages BG as per Clause 5.7F(ii), the Purchaser shall within 2 Business Days from the final settlement of the proceedings: (i) notify the Escrow Agent II to remit to Seller I Designated Bank Account, an amount equal to AP Project LD Withholding Amount and the Escrow Agent II shall remit the funds accordingly; and (ii) release the Liquidated Damages BG to Seller I.
- (v) The Parties agree that any Tax (including goods and services tax) levied on the Liquidated Damages Claim Amount, shall be borne by Seller I and shall be reimbursed by Seller I to the Company / Purchaser within 5 (Five) Business Days of demand by the Purchaser.
- (vi) Seller I agrees and acknowledges that in the AP Project LD Notice is not finally adjudicated at least 7 (Seven) Business Days prior to the expiry of the Liquidated Damages BG, Seller I shall, at least 5 (Five) Business Days prior to the date of expiry of the Liquidated Damages BG, cause the extension of the validity of the Liquidated Damages BG by 6 (six) months, and provide necessary documents evidencing such extension to the Purchaser. The Purchaser and Seller I agree that the procedure mentioned herein under sub-clause (ix) shall be repeated by Seller I and the Purchaser till the final adjudication of the AP Project LD Notice in the manner envisaged under this Clause 5.7F. Without prejudice to the obligation of the Purchaser and the right of the Seller I to receive any amounts in accordance with the above mentioned sub-clauses, the Purchaser and Seller I further agree that if Seller I does not cause the extension of the validity of the Liquidated Damages BG, as provided under this sub-clause (vi), within the time prescribed, the Purchaser shall be entitled to invoke the Liquidated Damages BG, without any prior notice to Seller I, to recover Rs. 12,00,00,000 (Rupees Twelve Crores) paid by the Purchaser to Seller I; and Seller I shall be liable to pay to the Purchaser interest on such amount calculated at the rate of 12% (Twelve Percent) per annum from the date the Purchaser paid an amount of Rs. 12,00,00,000 (Rupees Twelve Crores) to Seller I under Clause 5.7F(ii) above till the date of payment.
- (vii) It is clarified and the Purchaser hereby agrees and acknowledges that apart from the liability of payment of Liquidated Damages Claim Amount by the Seller I to the Purchaser together with the interest applicable thereon in accordance with the abovementioned terms, the Seller I shall not have any other liability or responsibility whatsoever towards the Purchaser and subject to the foregoing the Purchaser shall, upon full and final adjudication of the AP Project LD Notice, not have any claim and accrued rights against the Seller I apart from the entitlement to receive the payment of Liquidated Damages Claim Amount from the Seller I. It is also clarified that in the event an unfavourable order is received from relevant Governmental Authority in respect of the AP Project LD Notice, the Seller I shall at its discretion be entitled to appeal to a higher authority against such order and the liability of the Seller I under the terms hereof to pay Liquidated Damages Claim Amount, to the Purchaser, shall not arise until



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the claim with respect to AP Project LD Notice is not finally adjudicated upon the full and final disposal of the said claim to the effect that either there no further appeal possible against the unfavorable order under the Applicable Law or the Seller I has elected not to file further appeal against such order. The Seller I shall provide all information to the Purchaser, in relation to the aforesaid proceedings, as may be required by the Purchaser, from time to time. The Seller I shall run the proceedings in respect of the AP Project LD Notice diligently and in good faith, and shall not make any settlement or compromise towards the same without consent of the Purchaser, which consent should not be unreasonably withheld or delayed. The Purchaser shall, in good faith, while evaluating the proposal to settle or compromise, give due regard to the business exigencies and overall implications on the business of the Company, and take decisions that are in the best interest of the Company. The Seller I shall take reasonable account of the views of the Purchaser prior to any admission, settlement or comprise in respect of the proceedings relating to AP Project LD Notice and in the event the Purchaser is not satisfied with the defence or the manner in which the proceedings are being run by the Seller I, then the Purchaser shall be entitled to suggest an alternative approach, which shall be considered by the Seller I in good faith.

However, in the event the Purchaser is required to by Applicable Law to make payment of the Liquidated Damages Claim Amount (or any portion thereof) to, or any part of the Liquidated Damages Claim Amount is recovered from the Company by, any Governmental Authority or Person, before the full and final disposal of any such appeal filed by Seller I, then the Seller I shall be liable to pay to the Purchaser, and the Purchaser shall be entitled to recover from Seller, the Liquidated Damages Claim Amount in accordance with the terms of this Clause 5.7F.

- (viii) The Company and the Purchaser hereby further agrees and undertakes to provide all the requisite co-operation and assistance required by the Seller I with respect to running the abovementioned proceedings and claim in respect of AP Project LD Notice, including without limitation, issuing necessary authorizations, providing information and copies of any documents received by the Company in respect of abovementioned claim, representation before the concerned Governmental Authorities etc.

7.8 After Clause 5.7F of the SPA, a new Clause 5.7G shall stand inserted:

**5.7G IT Assessment BG**

- (i) Seller I agrees and acknowledges that pursuant to the IT Assessment Order and Demand Notice, the Company has been directed to pay an amount of Rs. 5,56,51,405 (Rupees Five Crores Fifty Six Lakhs Fifty One Thousand Four Hundred and Five) as income tax for Assessment Year 2016-17 ("IT Claim"). As of the Execution Date hereof, the Seller I proposes to appeal against the IT Assessment Order.
- (ii) The Parties agree that, during the pendency of the appellate proceedings in relation to the IT Assessment Order, the Purchaser shall have the right to withhold an amount equal to the IT Claim from the Second Closing Date Payment ("IT Claim Withholding Amount"). Seller I shall have the right to receive the IT Claim Withholding Amount from the Purchaser upon furnishing to the Purchaser the IT Claim BG. Within 2 (two) Business days from the date of receipt of the IT Claim BG from Seller I, the Purchaser shall remit an amount equal to the IT Claim Withholding Amount to the Seller I Designated Bank Account.
- (iii) Upon passing/issuing a final assessment/order/judgment/directive against the Company, in



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relation to the IT Claim, requiring the Company to deposit or pay any amount due as arrears of income tax along with interest and/or penalty thereon, if any, ("IT Claim Amount") with the Department of Income Tax and/or any other Governmental Authority in full and final disposal of the IT Claim:

- (a) if the Purchaser has remitted the amount of IT Claim Withholding Amount to Seller I Designated Bank Account in accordance with Clause 5.7G(ii) above, Seller I shall, within 2 (Two) Business Days of receipt of written notice by the Purchaser in this regard, remit the entire IT Claim Amount to the Purchaser Designated Bank Account along with interest calculated at the rate of 12% (twelve percent) per annum from the date of payment by the Purchaser under Clause 5.7G(ii) till the date of payment of the IT Claim Amount to Seller I. Upon receipt of the IT Claim Amount (together with interest thereon) from Seller I, the Purchaser shall return the IT Claim BG to Seller I, within 2 (Two) Business Days thereof.

*Provided that*, if Seller I fails to pay the IT Claim Amount (together with interest thereon) to the Purchaser within the aforesaid 2 (two) Business Days' time period, the Purchaser shall have the right to invoke the IT Claim BG without any further notice to Seller I. If the IT Claim BG is not sufficient to make the Purchaser whole in respect of the IT Claim Amount along with applicable interest, the Purchaser shall be entitled to recover such deficit amounts from Seller I along with interest at the rate of 12% (Twelve per cent) per annum; and

- (b) if Seller I has not furnished the IT Claim BG and the Purchaser has not remitted the IT Claim Withholding Amount to Seller I Designated Bank Account in accordance with Clause 5.7G(ii) above, the IT Claim Amount shall stand adjusted from the Equity Consideration and no amount shall be payable by the Purchaser to Seller I on account of the IT Claim Amount.

If the IT Claim Amount is over and above the IT Claim Withholding Amount, the Purchaser shall be entitled to set off an amount equal to such excess IT Claim Amount payable by the Company from any remittance/payment of any other tranche or part of the Withholding Amounts payable by the Purchaser to Seller I, and if all other Withholding Amounts have already been paid by the Purchaser to Seller I in accordance with the terms hereof, Seller I shall be liable to forthwith pay an amount equal to the excess IT Claim Amount to the Purchaser, along with interest at the rate of 12% (Twelve Percent) per annum from the date such amount falls due by Seller I till the date of actual payment by Seller I. If the IT Claim Withholding Amount is more than the IT Claim Amount, then the Purchaser shall remit to the Seller I Designated Bank Account, an amount equal to the IT Claim Withholding Amount less the IT Claim Amount, within 2 (Two) Business Days of full and final disposal of the IT Claim.

- (iv) Upon passing/ issuing a final assessment/ order/ judgment/ directive in favour of the Company in full and final disposal of the IT Claim (such that the Company is not required to pay any amount on account of income tax (along with penalty/interest thereon, if any) in relation to the IT Claim, no adjustment shall be made from the Equity Consideration on Account of IT Claim Withholding Amount and:
- (a) if the Purchaser has remitted the amount of IT Claim Withholding Amount to Seller I Designated Bank Account in accordance with Clause 5.7G(i) above, the Purchaser shall return the IT Claim BG to Seller I, within 2 (Two) Business Days of full and final



disposal of the IT Claim; and

- (b) if the Purchaser has not remitted the IT Claim Withholding Amount to Seller I Designated Bank Account in accordance with Clause 5.7G(ii) above, the same shall be remitted by the Purchaser to Seller I Designated Bank Account, within 2 (Two) Business Days of full and final disposal of the IT Claim.
- (v) The Purchaser and Seller I agree that if the final assessment/order/judgment/directive is issued/passed by the relevant Governmental Authority, in full and final disposal of the IT Claim, and the IT Claim Amount is over and above the corresponding IT Claim Withholding Amount, the Purchaser shall be entitled to set off an amount equal to such excess IT Claim Amount payable by the Company from any remittance/payment of any other tranche or part of the Withholding Amounts payable by the Purchaser to Seller I, and if all other Withholding Amounts have already been paid by the Purchaser to Seller I in accordance with the terms hereof, Seller I shall be liable to forthwith pay an amount equal to the excess IT Claim Amount to the Purchaser, along with interest at the rate of 12% (Twelve Percent) per annum from the date such amount falls due by Seller I till the date of actual payment by Seller I.
- (vi) Seller I agrees and acknowledges that in the IT Claim is not finally adjudicated at least 7 (Seven) Business Days prior to the expiry of the IT Claim BG, Seller I shall, at least 5 (Five) Business Days prior to the date of expiry of the IT Claim BG, cause the extension of the validity of the IT Claim BG by 6 (six) months, and provide necessary documents evidencing such extension to the Purchaser. The Purchaser and Seller I agree that the procedure mentioned herein under sub-clause (vi) shall be repeated by Seller I and the Purchaser till the final adjudication of the IT Claim in the manner envisaged under this Clause 5.7G. The Purchaser and Seller I further agree that if Seller I does not cause the extension of the validity of the IT Claim BG, as provided under this sub-clause (vi), within the time prescribed, the Purchaser shall be entitled to invoke the IT Claim BG, without any prior notice to Seller I, to recover the IT Claim Withholding Amount paid by the Purchaser to Seller I; and Seller I shall be liable to pay to the Purchaser interest on such amount calculated at the rate of 12% (Twelve Percent) per annum from the date the Purchaser paid the IT Claim Withholding Amount to Seller I under Clause 5.7G(ii) above till the date of payment.
- (vii) It is clarified and the Purchaser hereby agrees and acknowledges that apart from the liability of payment of IT Claim Amount by the Seller I to the Purchaser together with the interest applicable thereon in accordance with the abovementioned terms, the Seller I shall not have any other liability or responsibility whatsoever towards the Purchaser and subject to the foregoing the Purchaser shall, upon full and final adjudication of the IT Claim, not have any claim and accrued rights against the Seller I apart from the entitlement to receive the payment of IT Claim Amount together with the interest applicable thereon from the Seller I. It is also clarified that in the event an unfavourable order is received from the relevant Governmental Authority in case of IT Claim, the Seller I shall at its discretion be entitled to appeal to a higher authority against such order and the liability of the Seller I under the terms hereof to pay IT Claim Amount together with the interest applicable thereon, to the Purchaser, shall not arise until the IT Claim is not finally adjudicated upon the full and final disposal of IT Claim to the effect that either there no further appeal possible against the unfavorable order under the Applicable Law or the Seller I has elected not to file further appeal against such order. The Seller I shall provide all information to the Purchaser, in relation to the aforesaid proceedings, as may be required by the Purchaser, from time to time. The Seller I shall run the proceedings in respect of the IT Claim diligently and in good faith, and shall not make any settlement or compromise towards the same without consent of the Purchaser, which consent should not be



*Signature*



*Signature*

