

Unrecovered Amount at the rate of 18% (Eighteen Percent) per annum, for the period commencing on September 10, 2019 and ending on the date of actual payment of the aforementioned amounts by Seller I to the Purchaser, or receipt of the Purchaser Asset Sale Amount by the Purchaser as per Clause 5.12.2(ii) below. It is clarified that the Purchaser shall be entitled to interest under this Clause 5.12.2(ii)(d) without prejudice to the right available to the Purchaser under Clause 5.12.2(ii) (*Asset Sale Right*) or any other rights under this Agreement.

Simultaneously with the receipt of the amounts mentioned under this Clause 5.12.2(ii) by the Purchaser, the Purchaser shall transfer the First Closing Sale Shares to Seller I (or its affiliate), free from any Encumbrances. Further, if the Purchaser ceases to be shareholder of the Company pursuant to the provisions of this Clause 5.12.2(ii), the Purchaser shall cause the Purchaser Director appointed on the Board of the Company on the First Closing Date in accordance with the terms hereof, to resign from the Board simultaneously with the consummation of the transfer of the First Closing Sale Shares from the Purchaser to Seller I.

- (ii) **Asset Sale Right:** In addition to other rights available to the Purchaser under this Clause 5.12.2, the Purchaser may, upon expiry of the 1 (One) year from the Long Stop Date (that is, September 10, 2018), issue a notice to the Company and Seller I ("**Asset Sale Notice**"), and initiate the process for sale of assets of the Company or sale of all the Equity Shares of Company ("**Asset Sale**") in accordance with the provisions of this Clause 5.12.2(ii).
- (a) For the purpose of managing the Asset Sale process, the Purchaser shall appoint an independent investment banker/process manager ("**Process Manager**") within 15 (Fifteen) Business Days of issuance of the Asset Sale Notice. Upon appointment of the Process Manager, the Company shall deliver, or cause to be delivered, all such information as may be required by the Process Manager for the purpose of carrying out the Asset Sale.
- (b) All fees, costs, Tax and expenses in relation to the appointment of the Process Manager and the completion of the Asset Sale (including any Tax on sale of assets pursuant to the Asset Sale and distribution of proceeds to Purchaser) shall be borne by the Company and Seller I at all times.
- (c) For the purposes of the Asset Sale, the Process Manager shall be entitled to identify and sell the assets or Equity Shares of the Company such that the net proceeds (after all costs, Taxes and charges from the Asset Sale is at least equal to the Purchaser Asset Sale Amount ("**Net Proceeds**"), so as to provide an exit to the Purchaser.
- (d) The Process Manager may conduct the Asset Sale in one or a series of different transactions based on its assessment on the marketability and ease of completing the Asset Sale in a timely manner; *provided that* the Asset Sale(s) shall in any event be completed prior to the expiry of 3 (Three) months from the date of issuance of the Asset Sale Notice by the Purchaser.
- (e) The Process Manager shall solicit at least 3 (Three) proposals for the Asset Sale ("**AS Proposals**"), and notify the Company, Seller I and the Purchaser of the same. It is clarified that the Process Manager will only submit such Asset Sale(s) proposals to the Purchaser, the Company and Seller I for consideration where the Persons submitting the



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AS Proposals have tangible and efficient re-financing plans for the Continuing Loans.

- (f) After the completion of the asset sale(s), the Company and Seller I shall take all such steps as may be necessary to ensure that the Purchaser receives such amount which is at least equal to the Net Proceeds from all the Asset Sales within 7 (Seven) days of completion of the Asset Sale(s).
- (g) Seller I shall vote or transfer the Equity Shares held by it in the Company and cause the Directors appointed by it to the Board in order to implement, give effect to and cause the Asset Sale(s), and to enable the Purchaser to receive the Purchaser Asset Sale Amount in a Tax efficient manner (including causing the Company to undertake a buy-back of the First Closing Sale Shares held by the Purchaser, subject to Applicable Law). Seller I undertakes to provide full assistance and co-operation to the Company, the Purchaser and the Process Manager for efficient and timely consummation for the Asset Sale(s).
- (h) The Company and Seller I hereby covenant and undertake to procure all Consents and Governmental Approvals (including Consents from the Lenders and DISCOMs, as may be required) necessary or desirable in connection with the consummation of the Asset Sale(s).
- (i) The Purchaser shall not make (or be required to make) any representations or warranties to any Person in connection with the Asset Sale(s) and all representations, warranties and indemnities for the purpose of the Asset Sales will be furnished by Seller I and the Company.

5.12.3 In the event the First Closing has occurred in accordance with the terms hereof, but the Second Closing does not occur on or before the Long Stop Date on account of reasons solely attributable to the Purchaser, including failure by the Purchaser to issue the escrow instructions to the Escrow Agent for consummation of the Second Closing on or before the Long Stop Date, the Purchaser shall be entitled to refund of the Advance Consideration from Seller I and provisions of Clause 5.12.1(ii) above shall apply *mutatis mutandis* to this Clause 5.12.3. Further, Seller I shall have the right to call/purchase the First Closing Sale Shares held by the Purchaser by issuing a notice to such effect to the Purchaser, and the Purchaser shall be under an obligation to sell to Seller I (and/or any nominee of Seller I) the First Closing Sale Shares free from any Encumbrances, at a price equivalent to the First Closing Date Payment *reduced by* interest calculated at the rate of 12% (Twelve Percent) per annum on the First Closing Date Payment, from the date of receipt of the First Closing Date Payment by Seller I till the date of issuance of call option notice by Seller I to the Purchaser. The Purchaser shall simultaneously with the aforesaid transfer of First Closing Sale Shares, cause the Purchaser Director appointed on the Board of the Company on the First Closing Date in accordance with the terms hereof, to resign from the Board.

5.12.4 The Purchaser and Seller I agree that Seller I shall, at least 5 (Five) Business Days prior to the BG Expiry Date, cause the extension of the validity of the Advance Bank Guarantee, such that the extended BG Expiry Date is at least 2 (Two) Business Days after the Long Stop Date, and provide necessary documents evidencing such extension to the Purchaser. The Purchaser and Seller I further agree that if Seller I does not cause the extension of the validity of the Advance Bank Guarantee as provided in the immediately preceding sentence, within the time prescribed, the Purchaser shall be entitled to a refund of the Advance Consideration, along with interest thereon, and the provisions of Clause 5.12.1(i) shall *mutatis mutandis* apply to this Clause 5.12.4.



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5.12.5 Upon occurrence of any of the events mentioned in Clause 5.12.1(i), or Clause 5.12.2 or Clause 5.12.4 above:

- (i) the Purchaser shall intimate the Escrow Agent of such event (with a copy to Seller I) within 2 (Two) Business Days of the occurrence thereof and the Escrow Agent shall, upon expiry of 2 (Two) Business Days from the date of receipt of such notice from the Purchaser, release the entire amount standing to the credit of the Escrow Bank Account (along with BG Interest thereon, if any) to the Purchaser Designated Bank Account. It is however clarified that if the Second Closing has not occurred, the Escrow Agreement will not be terminated, and the Escrow Agent shall continue to hold the Second Closing Deliverables in escrow until the Purchaser receives the amounts due to it under Clause 5.12.2 or Clause 5.12.4, as applicable. In such an event, the Escrow Agreement Term will be extended by the Purchaser and Seller I shall be liable to pay the escrow fees to the Escrow Agent and incur all other costs and expenses in relation thereto; and
- (ii) Seller I shall be liable to the Purchaser for all Losses incurred/suffered by the Purchaser (including, by way of example, all costs incurred in the negotiation and signing of this Agreement and other Transaction Documents and carrying out legal, tax, financial and technical diligence of the Company).

5.12.6 Upon occurrence of any of the events mentioned in Clause 5.12.1(ii) or Clause 5.12.3 above:

- (i) the Purchaser shall intimate the Escrow Agent of such event (with a copy to Seller I) within 2 (Two) Business Days of the occurrence thereof, and the Escrow Agent shall, upon the expiry of 2 (Two) Business Days from the date of receipt of such notice from the Purchaser: (a) release the entire amount standing to the credit of the Escrow Bank Account to the Purchaser Designated Bank Account, along with BG Interest thereon, if any; (b) return the First Closing Deliverables and Second Closing Deliverables (as may be applicable) to Seller I; and (c) close the Escrow Bank Account and provide necessary documents to the Purchaser; and
- (ii) the Purchaser shall be liable to Seller I for all Losses incurred/suffered by Seller I (including, by way of example, all costs incurred in the negotiation and signing of this Agreement and other Transaction Documents).

5.13 The Sellers hereby confirm that upon payment of the First Closing Date Payment and the Second Closing Date Payment by the Purchaser to Seller I, the Purchaser shall acquire valid title to the First Closing Sale Shares and the Seller I Second Closing Sale Shares respectively, free and clear of any and all Encumbrances (other than the pledge that might be required to be created in favour of the Lenders in respect of the Continuing Loans over the Seller I Second Closing Sale Shares) and together with all the rights, benefits, title and interest (legal and beneficial) now or hereafter appertaining thereto, notwithstanding the withholding of the Outstanding Receivables, the Withholding Amounts, APSPDCL Receivable Remittance and the Excluded Assets Sale Consideration, as may be applicable in accordance with the terms hereof.

6. CONDITIONS PRECEDENT

6.1 First Tranche Conditions Precedent



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- 6.1.1 The obligation of the Purchaser to purchase the First Closing Sale Shares is subject to the fulfilment (to the satisfaction of the Purchaser (acting reasonably)), prior to but not later than expiry of 15 (Fifteen) days from the Execution Date ("First Tranche Long Stop Date"), by Seller I and/or the Company, of each of the conditions set out in Part A of Schedule V of this Agreement ("First Tranche Conditions Precedent"), and delivery and execution of such items (as may be required) in form and substance satisfactory to the Purchaser (acting reasonably).
- 6.1.2 Subject to Applicable Law and upon receipt of written request from Seller I and the Company, the Purchaser may waive all or any of the First Tranche Conditions Precedent (either in whole or in part), in its sole discretion, at any time by giving notice to Seller I and the Company, and require that such waived First Tranche Conditions Precedent be fulfilled/completed by Seller I and/or the Company as First Tranche Conditions Subsequent (within the time period prescribed by the Purchaser) or as Second Tranche Conditions Precedent.
- 6.1.3 Seller I shall and shall cause the Company to take all steps necessary to promptly and expeditiously fulfil the First Tranche Conditions Precedent after the Execution Date, and in any event not later than the First Tranche Long Stop Date, and shall keep the Purchaser promptly informed of all actions and steps taken in this behalf. If, at any time, the Company or Seller I becomes aware of a fact or circumstance that shall prevent a First Tranche Condition Precedent from being satisfied before the First Tranche Long Stop Date, they shall promptly inform the Purchaser in writing.
- 6.1.4 Within 1 (One) Business Day of fulfilment (or waiver by the Purchaser) of the First Tranche Conditions Precedent, Seller I and the Company shall provide written confirmation of the same ("First Tranche CP Completion Certificate") to the Purchaser in the form attached at Schedule VI of this Agreement (Form of CP Completion Certificate), along with all necessary documents to evidence due completion and fulfilment of the First Tranche Conditions Precedent.
- 6.1.5 If the First Tranche Conditions Precedent have been fulfilled or waived in accordance with this Clause 6.1, and the Purchaser is satisfied with the First Tranche CP Completion Certificate (acting reasonably), the Purchaser shall within 2 (Two) Business Days from the receipt of the First Tranche CP Completion Certificate provide an acknowledgment of satisfaction of the First Tranche Conditions Precedent by counter signing the First Tranche CP Completion Certificate and providing the same to Seller I (along with copy to the Company and the Escrow Agent). The Parties shall thereafter, proceed to First Closing, in accordance with Clause 7.1 below, which shall take place within 4 (Four) Business Days of the acknowledgment of the First Tranche CP Completion Certificate by the Purchaser. The Purchaser will intimate to Seller I the details of the nominee (if any) of the Purchaser who/which will acquire 1 (One) Sale Share from Seller I on the First Closing Date.
- 6.1.6 If any of the First Tranche Conditions Precedent is not fulfilled, or is not waived in writing by the Purchaser (to be fulfilled/completed as First Tranche Conditions Subsequent or Second Tranche Conditions Precedent), by the First Tranche Long Stop Date, in accordance with this Clause 6.1, then the Purchaser shall have the right, but not the obligation to terminate this Agreement by notice to Seller I and the Company. Upon the issuance of such notice by the Purchaser, this Agreement and the other Transaction Documents shall *ipso facto* cease and terminate, save for any terms of this Agreement and the other Transaction Documents which are expressly stated to survive the termination of this Agreement (or the other Transaction Documents), and none of the Parties, other than for wilful breaches prior to such date, shall have any Claims against the other(s) for Losses.
- 6.1.7 Notwithstanding Clause 6.1.6, if the First Closing does not occur by the First Tranche Long Stop Date:



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(i) for reasons attributable to Seller I and this Agreement (and the other Transaction Documents) are terminated in accordance with Clause 6.1.6 above, Seller I shall be liable to the Purchaser for all Losses incurred/suffered by the Purchaser (including, by way of example, all costs incurred in the negotiation and signing of this Agreement and other Transaction Documents and carrying out legal, tax, financial and technical diligence of the Company); or (ii) post fulfilment of the First Tranche Conditions Precedent to the satisfaction of the Purchaser (acting reasonably), for reasons attributable solely to the Purchaser, then Seller I shall be entitled to terminate this Agreement (and the other Transaction Documents), and the Purchaser shall be liable to Seller I for all Losses incurred/suffered by Seller I (including, by way of example, all costs incurred in the negotiation and signing of this Agreement and other Transaction Documents). It is clarified that the rights available to the Parties under this Clause 6.1.7 shall be without prejudice and shall not be deemed to limit or restrict any other rights available to the Parties under this Agreement or other Transaction Documents.

6.1.8 In the event there is a change in Applicable Law post the Execution Date and prior to issuance of the First Tranche CP Completion Certificate by Seller I to the Purchaser, which adversely affects the performance of this Agreement and the other Transaction Documents by any Party hereto in a material way, the Parties will endeavour to, if deemed necessary, amend and renegotiate this Agreement in good faith, so as to reflect the commercial understanding between the Parties; *provided however* that any Party may decide to terminate this Agreement in lieu of any amendments to the Agreement, save for any terms of this Agreement which are expressly stated to survive the termination of this Agreement, and none of the Parties (other than for wilful breaches prior to such date) shall have any Claim and accrued rights against the other(s), including in respect of any Losses in the event of such termination. Notwithstanding the immediately preceding sentence, in the event this Agreement is terminated pursuant to this Clause 6.1.8, Purchaser shall be entitled to refund of the Advance Consideration and return of Escrow Consideration and Seller I shall be entitled return of the First Closing Deliverables and Second Closing Deliverables.

6.2 Second Tranche Conditions Precedent

6.2.1 The obligation of the Purchaser to purchase the Seller I Second Closing Sale Shares is subject to the fulfilment (to the satisfaction of the Purchaser (acting reasonably)), prior to but not later than the Long Stop Date by Seller I and/or the Company, of each of the conditions set out in **Part B of Schedule V of this Agreement ("Second Tranche Conditions Precedent")**, and delivery and execution of such items (as may be required) in form and substance satisfactory to the Purchaser (acting reasonably).

6.2.2 Subject to Applicable Law and upon receipt of written request from Seller I and the Company, the Purchaser may waive all or any of the Second Tranche Conditions Precedent (either in whole or in part), in its sole discretion, at any time by giving notice to Seller I and the Company, and require that such waived Second Tranche Conditions Precedent be fulfilled/completed as Second Tranche Conditions Subsequent, within the time period prescribed by the Purchaser.

6.2.3 Subject to this Clause 6.2, all provisions of Clauses 6.1.2 to 6.1.8 (to the extent applicable) shall *mutatis mutandis* apply to Second Tranche Conditions Precedent and all references to First Tranche CP Completion Certificate shall be read as "Second Tranche CP Completion Certificate". Along with issuance of acknowledgement to the Second Tranche CP Completion Certificate by the Purchaser, the Purchaser will intimate to Seller I the details of the nominee of the Purchaser who/which will acquire 1 (One) Seller I Second Closing Sale Share from Seller I on the Second Closing Date. Further, if the Purchaser has funded the Second Closing Date Payment in the Escrow Bank Account by way of bank guarantee, the Purchaser shall deposit an amount equal to the Second Closing Date



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Payment, in cash, in the Escrow Bank Account at least 1 (One) Business Day prior to the Second Closing Date.

6.2.4 Notwithstanding anything contained in this Agreement, the Parties agree and acknowledge that in respect of fulfilment of the Second Tranche Condition Precedent specified in paragraph 6(iv) of **Part B of Schedule V** of this Agreement, Seller I shall approach the Lenders for release of corporate guarantees issued by Mahavir Thermoequip Private Limited and Seller I in favour of the Lenders for securing the Continuing Loans availed by the Company ("**Corporate Guarantees**"). The Purchaser agrees and undertakes to provide its assistance and co-operation to Seller I in respect of pursuing the Lenders, including by way of attending joint meetings and discussions with the Lenders from time to time in this regard. However, in the event the Lenders do not consent to release of such Corporate Guarantees, and all other Second Tranche Conditions Precedent have either been completed to the satisfaction of the Purchaser (acting reasonably) or waived by the Purchaser (including as provided in Clause 4.2.3 above), prior to the Long Stop Date in accordance with the terms hereof, the Parties shall proceed to Second Closing in the manner provided in Clause 7.2 below and the Purchaser shall waive the aforesaid Second Tranche Condition Precedent mentioned at paragraph 6(iv) of **Part B of Schedule V** of this Agreement; *provided that* Seller I by itself, and causes Mahavir Thermoequip Private Limited to, continue their respective Corporate Guarantees issued in favour of the Lenders for securing the Continuing Loans availed by the Company for a period of at least 6 (Six) months from the Second Closing Date. The Purchaser undertakes that, during the aforesaid period of 6 (Six) months from the Second Closing Date, the Purchaser shall make reasonable efforts to cause the release of the Corporate Guarantees either by way of re-financing the Continuing Loans from another lender(s) or replacing the said Corporate Guarantees with other guarantee(s) to be issued by the Purchaser and/or its affiliate(s). However, the Purchaser and Seller I agree that in the event the Corporate Guarantees are not released in accordance with the immediately preceding sentence prior to the expiry of 6 (Six) months from the Second Closing Date, the Purchaser may, request Seller I to, and cause Mahavir Thermoequip Private Limited to, further extend the Corporate Guarantees for an additional period of up to 6 (Six) months, and Seller I shall cause the Corporate Guarantees to continue for a further period of 6 (Six) months from the expiry of the earlier period of 6 (Six) months. In the event the Corporate Guarantees are extended for a further period of 6 (Six) months in accordance with the immediately preceding sentence, the Purchaser shall pay Seller I interest calculated at the rate of 0.75% (Zero point Seven Five Percent) per annum on the total amount secured by the said Corporate Guarantees, and the Purchaser will continue to make reasonable efforts to obtain release of the Corporate Guarantees in the manner provided herein this Clause 6.2.4. In all the foregoing events, on and from the Second Closing Date, if the Corporate Guarantees are not released by the Lenders, then until the time such Corporate Guarantees are released by the Lenders, the Purchaser shall and hereby agrees and undertakes to fully indemnify and hold harmless Seller I, in respect of all Claims and/or Losses arising on account of the Corporate Guarantees continuing to be in force and effect, including on account of its invocation by the Lenders and/or any other matters connected thereto.

6.2.5 The Parties agree and acknowledge that in respect of fulfilment of the Second Tranche Condition Precedent specified in paragraph 6 of **Part B of Schedule V** of this Agreement (other than paragraph 6(iv) thereof) ("**Lenders' Consent**"), Seller I shall approach the Lenders for obtaining their respective Consents as required thereunder prior to the Long Stop Date. The Purchaser agrees to provide its assistance and co-operation in respect of pursuing the Lenders, including by way of attending joint meetings and discussions with the Lenders from time to time in this regard. The Purchaser and Seller I agree that if the Lenders' Consent is not obtained prior to the Long Stop Date, the Purchaser and Seller I may mutually agree to extend the Long Stop Date to October 10, 2018, during which period the Purchaser shall make reasonable efforts to obtain the Lenders' Consent, at the cost and expense of



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Seller I. It is clarified that in the event the Purchaser is unable to obtain the Lenders' Consent prior to expiry of the extended Long Stop Date, consequences provided under Clause 5.12.2 shall be applicable and the Purchaser shall be entitled to receive the Unrecovered Amount or Purchaser Asset Sale Amount, from Seller I in the manner provided in Clause 5.12.2 of this Agreement.

- 6.3 The Purchaser agrees to provide all reasonable support and assistance to Seller I and the Company, as may be required to fulfil the Conditions Precedent.

7. CLOSING

7.1 First Closing

- 7.1.1 Subject to the fulfilment of or waiver of the First Tranche Conditions Precedent in accordance with Clause 6.1 above, the Company, the Sellers, the Purchaser and the Escrow Agent, shall undertake the activities set out in Clause 7.1.2 of this Agreement ("First Closing") on the First Closing Date. The First Closing shall take place at the registered office of the Company or such other place as may be mutually agreed to in writing between Seller I and the Purchaser and intimated to the Other Sellers and the Company.

7.1.2 At First Closing:

- (i) The Company and Seller I shall deliver to the Purchaser, a certificate executed by the Company and Seller I dated as of the First Closing Date, certifying that (a) there has been no Material Adverse Effect as on the First Closing Date; (b) the Representations and Warranties are true and accurate in all respects as on the First Closing Date, subject to the qualifications and the exceptions contained in the Disclosure Letter and the First Updated Disclosure Letter, which is provided by Seller I to the Purchaser on the First Closing Date; and (c) the Company has conducted its business operations in the Ordinary Course and has complied with the obligations imposed under Clause 10 of this Agreement from the Execution Date until the First Closing Date;
- (ii) The Escrow Agent shall carry out the following actions:
- (a) deposit the respective Seller's First Closing Deliverables to the depository participant of each of the Sellers for transfer of the Respective Seller First Closing Sale Shares to the Purchaser; and
- (b) upon confirmation by the Purchaser of transfer of Respective Seller First Closing Sale Shares from each Seller, release an amount equivalent to First Closing Date Payment to the Seller I Designated Bank Account, receipt of which shall be forthwith confirmed by Vistra to the Escrow Agent;
- (iii) The Purchaser shall furnish to the Company: (a) a consent letter from the Purchaser Director, confirming his/her acceptance to being appointed as Director and duly filled and executed, by each Purchaser Director, form DIR - 2 and form DIR - 8, as required to be submitted under the Act by a Person prior to his appointment as a director of a company; (b) certified copies of the resolution(s) passed by the board of directors of the Purchaser, duly nominating Purchaser Director to act as Purchaser's nominee director on the Board on and from the First Closing Date; and (c) certified copies of the resolution(s) passed by the board of directors of the Purchaser identifying/appointing certain Persons to act as the representatives of the Purchaser at general



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meetings of the Company on and from the First Closing Date;

- (iv) Each Seller shall take all necessary measures and cause its depository participant to (a) acknowledge the respective Seller's First Closing Deliverables; and (ii) issue a demat account statement of the respective Seller's demat account, evidencing the transfer of Respective Seller First Closing Sale Shares by such Seller to the Purchaser (and/or its nominee) ("Respective Seller First Closing DP Documents");
- (v) The Purchaser and its nominee (if any) shall furnish to the Company (a) its demat account statements, issued by its depository participant, evidencing the transfer of Respective Seller First Closing Sale Shares by the Sellers to the Purchaser and/or its nominee, as the case may be; and (b) the Respective Seller First Closing DP Documents;
- (vi) Seller I shall cause the Board to hold a meeting (at shorter notice) and pass appropriate resolutions, *inter alia*, for:
- (a) (I) taking on record the Respective Seller First Closing DP Documents and the demat account statements of the Purchaser (and its nominee, if any); (II) approving the transfer of the Respective Seller First Closing Sale Shares from each Seller to the Purchaser (and its nominee, if any); and (III) authorising certain personnel of the Company to update the register of members of the Company to reflect the Purchaser and its nominee (if any) as the shareholder of the Company and the legal and beneficial owner of the First Closing Sale Shares;
- (b) approving appointment of 1 (One) Purchaser Director as Director on the Board and authorizing the company secretary or any other personnel of the Company to make appropriate entries in the register of directors maintained by the Company to give effect to the same;
- (c) taking on record form MBP - 1 submitted by the the Purchaser Director;
- (d) subject to consent of the shareholders of the Company at the extra ordinary general meeting, approve and adopt the Restated Articles as the Articles of the Company on and from the First Closing Date;
- (e) (I) authorising revocation of the original operating instructions of the Company's bank accounts and jointly authorizing the Purchaser's nominee / Purchaser Director and the Company's then existing authorised signatories, as the joint authorized signatories to the Company's bank accounts, and such instructions will not be revocable or subject to amendment without the prior consent of the Purchaser/Purchaser Director; and (II) authorising the company secretary or any Director of the Company to inform the bank(s) of the revised operating instructions and change in authorised signatories;
- (f) authorising a Person to file necessary forms and other documents and payment of fees with the Governmental Authorities (including the jurisdictional Registrar of Companies) in relation to the appointment of Purchaser Director as Director on the Board, and subject to approval of the shareholders of the Company in the extra-ordinary general meeting, approving and taking on record the Restated Articles as the Articles on and from the First Closing Date;



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- (g) recording and/or approving all such other matters or items that are required to be recorded or approved on the First Closing Date in accordance with this Agreement and other Transaction Documents; and
- (h) authorising Directors to issue a notice to the shareholders of the Company to convene, at shorter notice, an extra-ordinary general meeting on the First Closing Date for passing the resolutions mentioned in Clause 7.1.2(vi)(d) and regularizing the appointment of the Purchaser Director;
- (vii) The Company shall hold an extra-ordinary general meeting to pass the resolutions in relation to the items mentioned under Clause 7.1.2(vi)(d) and for regularizing the appointment of the Purchaser Director;
- (viii) The Company shall update the register of members of the Company to reflect the Purchaser (and its nominee, if any) as a shareholder of the Company in respect of the First Closing Sale Shares;
- (ix) The Company shall update the register of directors of the Company to record appointment of the Purchaser Director; and
- (x) Seller I shall deliver the First Closing Date Accounts to the Purchaser.

7.2 Second Closing

7.2.1 Subject to the fulfilment of or waiver of the Second Tranche Conditions Precedent in accordance with Clause 6.2 above, the Company, the Sellers, the Purchaser and the Escrow Agreement, shall undertake the activities set out in Clause 7.2.2 of this Agreement ("Second Closing") on the Second Closing Date. The Second Closing shall take place at the registered office of the Company or such other place as may be mutually agreed to in writing between Seller I and the Purchaser and intimated to the Company.

7.2.2 At Second Closing:

- (i) The Company and Seller I shall deliver to the Purchaser, a certificate executed by the Company and Seller I dated as of the Second Closing Date, certifying that (a) there has been no Material Adverse Effect as on the Second Closing Date; (b) the Representations and Warranties are true and accurate in all respects as on the Second Closing Date, subject to the qualifications and the exceptions contained in the Second Updated Disclosure Letter, which is provided by Seller I to the Purchaser on the Second Closing Date; and (c) the Company has conducted its business operations in the Ordinary Course and has complied with the obligations imposed under Clause 10 of this Agreement from the First Closing Date until the Second Closing Date;
- (ii) The Escrow Agent shall carry out the following actions:
 - (a) deposit the Second Closing Deliverables to the depository participant of Seller I for transfer of the Seller I Second Closing Sale Shares to the Purchaser;
 - (b) upon confirmation by the Purchaser of transfer of the Seller I Second Closing Sale Shares from Seller I, release (I) an amount equivalent to Second Closing Date Payment to Seller



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I Designated Bank Account along with BG Interest thereon, if any; and (II) an amount equivalent to Escrow Consideration reduced by the Effective Purchase Price to the Purchaser Designated Bank Account along with interest thereon; and

- (c) release the bank guarantee(s) corresponding to the aforementioned amounts, furnished by the Purchaser to fund the Escrow Bank Account and provide documentary evidence to the Purchaser;
- (iii) The Purchaser shall furnish to the Company: (a) a consent letter from each of the Purchaser Directors, confirming his/her acceptance to being appointed as Director and duly filled and executed, by each Purchaser Director, form DIR - 2 and form DIR - 8, as required to be submitted under the Act by a Person prior to his appointment as a director of a company; (b) certified copies of the resolution(s) passed by the board of directors of the Purchaser, duly nominating Purchaser Directors to act as Purchaser's nominee directors on the Board on and from the Second Closing Date; and (c) certified copies of the resolution(s) passed by the board of directors of the Purchaser identifying/appointing certain Persons to act as the representatives of the Purchaser at general meetings of the Company on and from the Second Closing Date;
- (iv) Seller I shall cause Mr. Nilesh Prabhakar Mahajan, Mr. Mayank Jayantilal Shah, Mrs. Kiran Singh, Mr. Mitul Mehta and Mr. Uday Suresh Dharia to provide, to the Company, their respective letters of resignation from the office of Director of the Company, to be effective upon the end of the Board meeting to be held on the Second Closing Date. Such letters of resignation shall be in the form and manner attached hereto as **Schedule XVII** of this Agreement;
- (v) Seller I shall take all necessary measures and cause its depository participant to (a) acknowledge the Second Closing Deliverables; and (b) issue a demat account statement of Seller I's demat account, evidencing the transfer of Seller I Second Closing Sale Shares by Seller I to the Purchaser ("**Seller I Second Closing DP Documents**");
- (vi) The Purchaser (and its nominee, if any) shall furnish to the Company (a) their respective demat account statements, issued by their respective depository participant, evidencing the transfer of Seller I Second Closing Sale Shares by Seller I to the Purchaser (and its nominee, if any); and (b) the Seller I Second Closing DP Documents;
- (vii) Seller I and the Purchaser shall cause the Board to hold a meeting (at shorter notice) and pass appropriate resolutions, *inter alia*, for:
- (a) (I) taking on record the Seller I Second Closing DP Documents and the demat account statements of the Purchaser (and its nominee); (II) approving the transfer of the Seller I Second Closing Sale Shares from Seller I to the Purchaser (and its nominee); and (III) authorising certain personnel of the Company to update the register of members of the Company to reflect the Purchaser (and its nominee) as the shareholders of the Company and the Purchaser (and its nominee) as the owners of the Seller I Second Closing Sale Shares;
- (b) approving appointment of Purchaser's nominees as the Purchaser Directors on the Board and authorizing the company secretary or any other personnel of the Company to make appropriate entries in the register of directors maintained by the Company to give effect to the same;



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- (c) taking on record form MBP- 1 submitted by the each of the Purchaser Directors;
- (d) if all the Proposed Activities have not been completed prior to Second Closing Date, authorizing the Directors to execute a duly notarized and stamped limited/special power of attorney in favour of Seller I, valid till December 31, 2018 ("Power of Attorney"), for and on behalf of the Company, in the form annexed hereto as **Schedule IX**, to carry out all the actions, matters and things as may be required to consummate the Proposed Activities in accordance with Clause 9 below and any matters connected thereto.
- (e) (I) authorising revocation of the original operating instructions of the Company's bank accounts and authorizing the Purchaser's nominee / Purchaser Directors as the authorized signatories to the Company's bank accounts; and (II) authorising the company secretary or any Director of the Company to inform the bank(s) of the revised operating instructions and change in authorised signatories;
- (f) taking on record the letters of resignation submitted by Mr. Nilesh Prabhakar Mahajan, Mr. Mayank Jayantilal Shah, Mrs. Kiran Singh, Mr. Mitul Mehta and Mr. Uday Suresh Dharia as Directors on the Board with effect from the end of this Board meeting to be held on Second Closing Date (without any Claims by such resigning directors against the Company) and authorizing the company secretary or any other personnel of the Company to make appropriate entries in the register of directors maintained by the Company to give effect to the same;
- (g) approving dissolution of the nomination and remuneration committee and audit committee of the Board;
- (h) subject to approval of the shareholders in an extra-ordinary general meeting, approve and accept, the resignation of M/s CNK & Associates, LLP as statutory auditor of the Company;
- (i) authorising a Person to file necessary forms and other documents and payment of fees with the Governmental Authorities (including the jurisdictional Registrar of Companies) in relation to (I) appointment of Purchaser Directors as Directors on the Board; (II) resignation of Mr. Nilesh Prabhakar Mahajan, Mr. Mayank Jayantilal Shah, Mrs. Kiran Singh, Mr. Mitul Mehta and Mr. Uday Suresh Dharia as Directors from the Board; and (III) subject to the approval of the shareholders in an extra-ordinary general meeting, approving and taking on record the resignation of M/s CNK & Associates, LLP as statutory auditor of the Company;
- (j) authorising Directors to issue a notice to the shareholders of the Company to convene, at shorter notice, an extra-ordinary general meeting on the Closing Date for passing the resolutions mentioned in Clause 7.2.2(vii)(h) hereinabove, and also for regularizing the appointment of Purchaser Directors appointed on the Second Closing Date; and
- (k) record and/ or approve all such other matters or items that are required to be recorded or approved, on the Second Closing Date, in accordance with this Agreement and other Transaction Documents.



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- (viii) The Company shall hold an extra-ordinary general meeting to pass the resolutions in relation to the items mentioned under Clause 7.2.2(vii)(b) hereinabove, and for regularizing the appointment of Purchaser Directors appointed on the Second Closing Date;
 - (ix) Seller I shall deliver the Second Closing Date Accounts to the Purchaser;
 - (x) Seller I shall deliver to the Purchaser, original material documents that pertain to the business of the Company including but not limited to the documents listed under **Schedule VII** of this Agreement (*List of Material Records*);
 - (xi) The Company shall update the register of members of the Company to reflect the Purchaser (and its nominee, if any) as a shareholder of the Company in respect of the Seller I Second Closing Sale Shares;
 - (xii) The Company shall update the register of directors of the Company to record appointment of the Purchaser Directors and the resignation Mr. Nilesh Mahajan Prabhakar, Mr. Mayank Jayantilal Shah, Mrs. Kiran Singh, Mr. Mital Mehta and Mr. Uday Suresh Dharja, from the Board; and
 - (xiii) Seller I shall furnish, if required as per Clause 6.2.4 of this Agreement, an undertaking from Mahavir Theromoequip Private Limited and Seller I, agreeing to extend the Corporate Guarantees for an additional period of 6 (Six) months.
- 7.3 All the activities undertaken at First Closing and Second Closing (as the case may be) shall be deemed to occur simultaneously and no such activity shall be deemed to be undertaken unless all such activities are consummated. It is agreed that the First Closing Sale Shares and the Seller I Second Closing Sale Shares (as the case may be) shall be transferred by the Sellers to the Purchaser (and its nominee) simultaneously and no transfer of any of the First Closing Sale Shares and the Seller I Second Closing Sale Shares (as the case may be) shall be valid and effective unless all the First Closing Sale Shares and the Seller I Second Closing Sale Shares (as the case may be) have been transferred to the Purchaser (and its nominee) and the First Closing Date Payment and the Second Closing Date Payment (as the case may be) is received by Seller I in accordance with the provisions of this Agreement and other Transaction Documents.

8. CONDITIONS SUBSEQUENT

8.1 First Tranche Conditions Subsequent

After First Closing, Seller I shall, and shall cause the Company to, duly complete and satisfy, to the satisfaction of the Purchaser (acting reasonably), (i) all actions and conditions as set forth in **Part A of Schedule VIII** of this Agreement, that are required to be completed and satisfied within the time frame identified therein; and (ii) all the First Tranche Conditions Precedent to the First Closing which were permitted by the Purchaser to be fulfilled as conditions subsequent to First Closing, within the time frame permitted in writing by the Purchaser ("**First Tranche Conditions Subsequent**"). Seller I shall provide documentary evidence indicating the fulfilment of each of the First Tranche Conditions Subsequent to the Purchaser within 2 (Two) Business Days from the date of the fulfillment of each of the First Tranche Conditions Subsequent. Seller I shall be liable to ensure completion of the First Tranche Conditions Subsequent, including any costs or expenses incurred by the Company in relation thereto (which shall be borne or reimbursed by Seller I to the Company from time to time).



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8.2 Second Tranche Conditions Subsequent

After Second Closing, Seller I shall (i) provide reasonable assistance to the Company and the Purchaser for completion of all actions listed under **Part B of Schedule VIII** of this Agreement, that are required to be completed and satisfied within the time frame identified therein; and (ii) duly complete and satisfy to the satisfaction of the Purchaser, all the Second Tranche Conditions Precedent to the Second Closing which were permitted by the Purchaser to be fulfilled as conditions subsequent to Second Closing, within the time frame permitted in writing by the Purchaser ((i) and (ii) collectively, "**Second Tranche Conditions Subsequent**"). Seller I shall provide documentary evidence indicating the fulfilment of each of the Second Tranche Conditions Subsequent (listed at (ii) above) to the Purchaser within 2 (Two) Business Days from the date of the fulfilment of each such Second Tranche Conditions Subsequent. Seller I shall be liable to ensure completion of the Second Tranche Conditions Subsequent (listed at (ii) above), including any costs or expenses incurred by the Company in relation thereto (which shall be borne or reimbursed by Seller I to the Company from time to time).

8A. GOVERNANCE MATTERS

- 8A.1 On and from the First Closing Date, the *quorum* for a Board meeting of the Company may be constituted by the Directors by attending the meeting in person, by telephone or by video conference (for so long as the Act so permits). The *quorum* for all meetings of the Board shall always include 1 (One) Purchaser Director, unless the requirement of presence of the Purchaser Director is expressly waived in writing by the Purchaser Director or any alternate Director appointed by the Purchaser to the Purchaser Director in accordance with the Act and the Restated Articles ("**Purchaser Alternate Director**"), as the case may be.
- 8A.2 Unless otherwise agreed to in writing by the Purchaser Director or the Purchaser Alternate Director (as the case may be), all meetings of the Board will be held pursuant to a prior notice of at least 7 (Seven) Business Days. The Board may meet at shorter notice (subject to the Consent of the Purchaser Director or the Purchaser Alternate Director (as the case may be)) and in keeping with the provisions of the Act.
- 8A.3 Each notice of a Board meeting shall contain, *inter alia*, an agenda specifying in reasonable detail the matters to be discussed and shall be accompanied by all necessary written information and documents. Notice of a meeting of the Board and the agenda thereof shall be sent to the Purchaser Director or Purchaser Alternate Director (as the case may be), with a copy to the Purchaser, and the other Directors. Subject to Clause 10 of this Agreement, with the consent of the majority of the Board (which majority shall necessarily include the Purchaser Director or the Purchaser Alternate Director), the Board may consider any matter not circulated in the agenda. In the event of the absence of the Purchaser Director or the Purchaser Alternate Director, as the case may be, the Board may consider any matter not circulated in the agenda only with the prior written consent of the Purchaser. Notwithstanding anything contained in this Agreement, no resolution shall be adopted or decision be taken at any meeting of the Board in respect of any of the matters listed in **Schedule X** of this Agreement unless the procedure detailed in Clause 10 of this Agreement is complied with.
- 8A.4 The Purchaser Director or the Purchaser Alternate Director (as the case may be) shall be appointed on each committee of the Board, as constituted on the First Closing Date, and all other committees as may be constituted post the First Closing Date. Unless otherwise provided in the Restated Articles, provisions of Clause 8A.1 to Clause 8A.3 shall *mutatis mutandis* apply to meetings of the committees.



of the Board.

9. EXCLUDED ASSETS

- 9.1 Seller I agrees and acknowledges that it shall endeavour to: (i) cause the transfer of the Nagari Project and the Somala Land (together with all movable and immovable assets, liabilities, obligations, Consents and Governmental Approvals in relation thereto) by the Company to Waareep Solar One Private Limited and Waaree Valves LLP respectively; (ii) complete the execution and registration of the transfer deed for the transfer of the Vedaang Land by the Company to Vedaang Energies LLP; and (iii) cause release of the Tender BG by Mahagenco, prior to the Second Closing Date ((i), (ii) and (iii) collectively, the "Proposed Activities").
- 9.2 In the event the Proposed Activities are not completed prior to the Second Closing Date:
- (i) Seller I shall be solely responsible for the transfer of the Nagari Project and Somala Land (together with all movable and immovable assets, liabilities, obligations, Consents and Governmental Approvals in relation thereto) to Waareep Solar One Private Limited and Waaree Valves LLP respectively, and the other Proposed Activities;
 - (ii) Seller I will cause the Company to transfer the Nagari Project and Somala Land (together with all movable and immovable assets, liabilities, obligations, Consents and Governmental Approvals in relation thereto and all rights, title and interests contained therein) to Waareep Solar One Private Limited and Waaree Valves LLP respectively, and carry out the other Proposed Activities; and
 - (iii) within 5 (Five) Business Days of receipt by the Company of the consideration (or part thereof) for such transfer of the aforementioned Excluded Assets by the Company, the Purchaser shall remit to Seller I such amount, as is equivalent to the amount of consideration received by the Company pursuant to the transfer of the aforementioned Excluded Assets, after deducting the following: (a) the costs/expenses incurred by the Company at actuals in relation to the transfer of the relevant Excluded Asset and/or completion of any other Proposed Activities; (b) any Tax liability of the Company (whether immediate or future) in relation to such transfer; and (c) an amount equivalent to the rate of dividend distribution tax as applicable on the date of such remittance) of the total Excluded Assets Sale Consideration ("Excluded Assets Sale Consideration").
- 9.3 Seller I agrees that transfer of the Nagari Project to Waareep Solar One Private Limited and/or the Somala Land to Waaree Valves LLP by the Company and consummation of the other Proposed Activities (whether prior to or post the Second Closing Date), shall not result in any cost/expenses or any Tax liability (whether immediate or future) to the Company and such costs/expenses and Taxes, if any, shall be borne by Seller I. Seller I further agrees that the Company shall cease to have any obligation or liability in relation to the aforementioned Excluded Assets on and from the date of completion of relevant activity(ies) in relation to each Excluded Asset.
- 9.4 Notwithstanding anything to the contrary contained herein, Seller I agrees and undertakes to: (i) furnish to the Purchaser, at least 7 (Seven) Business Days prior to the proposed execution thereof, drafts of all agreements, documents, deeds, applications, and other instruments proposed to be entered into (by Seller I) on behalf of the Company for the consummation of the Proposed Activities; (ii) incorporate any alterations or modifications required by the Purchaser in the aforesaid documents; and



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(iii) intimate to the Purchaser and the Company, within 2 (Two) Business Days, of the completion of any Proposed Activity and provide all documents (in originals) in relation thereto.

9.5 The Purchaser and the Company shall provide all reasonable assistance and co-operation to Seller I as may be reasonably required by Seller I for consummation of the Proposed Activities in accordance with the provisions of this Agreement.

10. CONDUCT UNTIL CLOSING

10.1 During the Interim Period, save as required pursuant to the terms of this Agreement and the other Transaction Documents, Seller I agrees to undertake to and cause the Company to carry out the Business of the Company in the Ordinary Course and in accordance with the Applicable Laws and the Charter Documents of the Company to:

- (i) preserve the Company's present business organization;
- (ii) keep valid and subsisting all Consents and Government Approvals obtained by the Company;
- (iii) retain the services of the Directors of the Company;
- (iv) maintain satisfactory relationships with the Company's customers, third-party contractors, Lenders, suppliers and other Persons having material business relationships with the Company; and
- (v) manage the working capital of the Company (including the timing of collection of accounts receivables and of the payment of accounts payable and the management of inventory) in the Ordinary Course; *provided however* that any delay in receipt of the accounts receivables for the MP Project and the AP Project (other than on account of actions attributable to Seller I and/or the Company for the period pertaining to prior to the Second Closing Date or failure of Seller I and/or the Company to take reasonable commercial measures to pursue recovery of such accounts receivables for the period pertaining prior to the Second Closing Date) shall not be construed to be outside the Ordinary Course of Business and breach of the aforesaid provision.

10.2 Without limiting the generality of the foregoing and save and except as required pursuant to the terms of this Agreement, Seller I and the Company hereby covenant that during the Interim Period:

- (i) Seller I shall not and shall cause the Company to not, without the prior written consent of the Purchaser (which shall not be unreasonably withheld or delayed), take any action with respect to the matters described in **Schedule X** of this Agreement (*Interim Period Obligations*);
- (ii) Seller I covenants that before any matter listed under **Schedule X** (*Interim Period Obligations*) of this Agreement is considered at any Board meeting or extra ordinary general meeting, Seller I will promptly give a written notice to the Purchaser setting forth, in reasonable detail, the proposed action to be undertaken and the estimate of amounts involved (if any) along with a copy of necessary documents in relation thereto, and request for the Purchaser's written consent for such action. The Purchaser agrees to not unreasonably withhold or delay the consent for any act by the Company, which is covered under one or more matters set out **Schedule X** (*Interim Period Obligations*), and which is required to be undertaken in the Ordinary Course;



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- (iii) Seller I shall and shall cause the Company to provide all information reasonably requested by the Purchaser, within such period as is reasonably practicable, but no later than 5 (Five) days from the date of such request by the Purchaser, and provide the Purchaser and/or its officers, advisers, agents and representatives with reasonable access to all of the Company's personnel and inspection of assets, premises, books and records of the Company, in each case, at an advance notice of not less than 2 (Two) days to Seller I from the date of proposed inspection. It is clarified for the avoidance of doubt the confidentiality restrictions specified under the terms hereof in Clause 15 shall extend to all such information shared with the Purchaser and its officers, advisers, agents and representatives and the Purchaser hereby agrees and undertakes to ensure that its officers, advisers, agents and representatives comply with such restrictions;
- (iv) Seller I shall and shall cause the Company to take actions as may be necessary to give effect to the transactions contemplated under this Agreement and the other Transaction Documents;
- (v) Seller I shall not and shall cause the Company to not, directly or indirectly disclose, assist, receive, initiate, respond (other than in the negative), discuss, enter into agreement or understanding (whether or not such agreement or understanding is absolute, revocable, contingent, conditional, oral, written, binding or otherwise) or solicit or negotiate with any third party with respect to a potential acquisition of any or all the Sale Shares or any other securities, including in relation to issuance of any shares or any other securities or ownership of the Company, or granting any management rights in the Company. Seller I and the Company confirm that as on the Execution Date, they have terminated all, and/or there are no, discussions or agreements with any other Person in relation to any proposed sale, issue and allotment of shares or any other securities of the Company, and that no Person (other than the Purchaser under this Agreement) has any right or entitlement granted by the Company or by Seller I of the Company to acquire shares or any other securities of the Company (other than rights granted under this Agreement); and
- (vi) Seller I shall use all its powers to cause the Company to not take any actions which might reasonably result in occurrence of a Material Adverse Effect or breach of any Representations and Warranties.

10.3 Notwithstanding anything to the contrary contained herein, all matters pertaining to/relating to Proposed Activities by the Company shall be excluded from the scope of this Clause 10 and nothing contained herein shall apply to the actions taken by the Company and Seller I with respect to transfer of the Nagari Project to Waaneep Solar One Private Limited and Somala Land to Waaree Valves LLP and/or registration of transfer of the Vedaang Land by the Company to Vedaang Energies LLP as per Clause 9 above.

10.4 Notices of Certain Events

During the Interim Period, Seller I shall promptly, and in any case within 4 (Four) days, and save and except in relation to completion of the Conditions Precedents in accordance with the terms hereof notify the Purchaser in writing of:

- (i) any notice or other communication from any Person alleging that the Consent of such Person is or may be required in connection with the transactions contemplated under this Agreement and the other Transaction Documents other than those required to be obtained as Conditions Precedent;



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- (ii) any notice or other communication from any Governmental Authority or other Person in connection with the transactions contemplated under this Agreement and the other Transaction Documents;
- (iii) any notice or other communication from any Governmental Authority or other Person in connection with any Tax matters or regulatory matters alleging violation of Tax or regulatory matters in respect of the Company;
- (iv) any actions, suits, Claims, investigations or proceedings, commenced or, to the best of the knowledge of Seller I, threatened, involving or otherwise affecting the Company, the Sale Shares and/or the Sellers in their capacity as the owners/holders of the Sale Shares;
- (v) any matter or thing which arises or becomes known to them, which constitutes breach of any covenant, undertaking or obligation on the part of the Sellers and/or the Company under this Agreement and the other Transaction Documents and/or under any agreement to which the Sellers and/or the Company are a party;
- (vi) any event which might reasonably result in occurrence of a Material Adverse Effect;
- (vii) all matters of a material nature or outside the Ordinary Course;
- (viii) event which might reasonably result in material breach of any of the Representations and Warranties;
- (ix) any event that may affect the fulfilment of the First Tranche Conditions Precedent and/or the Second Tranche Conditions Precedent prior to the First Tranche Long Stop Date and/or the Long Stop Date (as the case may be);
- (x) information pertaining to any agreement entered into by the Company with any Governmental Authority during Interim Period or any new O&M Contractors, EPC Contractors, DISCOMS, suppliers or third-party contractors, or modification, alteration or termination of any such existing agreement; and
- (xi) any notice of breach or termination or other material communication in respect of any material contract entered into by the Company.

10.5 Voting Obligations of the Sellers and the Purchaser

- (i) During the Interim Period, the Sellers shall use and exercise their voting rights (whether as shareholders or through nominee Directors of Seller I on the Board) to observe the terms of, and to fulfil their obligations as well as those of the Company under this Agreement and the other Transaction Documents, and generally to do all things within their power which are necessary or desirable to give effect to the Transaction Documents and to fulfil their obligations thereunder.
- (ii) Post the First Closing and until the Second Closing, the Purchaser shall use and exercise its voting rights (whether as shareholder or through its nominee directors) to observe the terms of, and generally to do all things within its power which are necessary or desirable to give effect to, the Transaction Documents.



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10.6 Consequences of Breach of Interim Period Obligations

- (i) It is agreed between the Parties that, in the event of any breach or non-compliance of any of the obligations set forth under this Clause 10 on account of any reason which is attributable (a) to the Sellers and/or the Company, and such breach or non-compliance is not cured within 5 (Five) days from the date of receipt of written notice from the Purchaser specifying the breach, and in any case before the First Closing Date or the Second Closing Date (as applicable), the Purchaser shall have the right, but not the obligation, by notice to Seller I, at its sole discretion, to terminate this Agreement, in which case this Agreement shall *ipso facto* cease and terminate, save for any terms of this Agreement which are expressly stated to survive the termination of this Agreement and Seller I shall be liable to the Purchaser for all Losses incurred/suffered by the Purchaser (including, by way of example, all costs incurred in the negotiation and signing of this Agreement and other Transaction Documents and carrying out legal, tax, financial and technical diligence of the Company); (b) solely to the Purchaser, for the period between the First Closing and the Second Closing, and such breach or non-compliance is not cured within 5 (Five) days from the date of receipt of written notice from Seller I specifying the breach, Seller I shall have the right, but not the obligation, by notice to the Purchaser, at its sole discretion, to terminate this Agreement, in which case this Agreement shall *ipso facto* cease and terminate, save for any terms of this Agreement which are expressly stated to survive the termination of this Agreement and the Purchaser shall be liable to Seller I for all Losses incurred/suffered by Seller I (including, by way of example, all costs incurred in the negotiation and signing of this Agreement and other Transaction Documents). It is clarified that the rights available to the Parties under this sub-clause shall be without prejudice and shall not be deemed to limit or restrict any other rights available to the Parties under this Agreement or other Transaction Documents.
- (ii) In the event of breach of obligations of Seller I contained in Clause 10.2(v) above, Seller I shall be liable to the Purchaser for an amount equal to Rs. 2,00,00,000 (Rupees Two Crores), in addition to the Losses, costs and expenses payable by Seller I to the Purchaser in accordance with sub-clause (i) above.

11. REPRESENTATIONS AND WARRANTIES

11.1 Representations and Warranties of the Sellers

11.1.1 The Sellers acknowledge that the Purchaser has agreed to purchase the Sale Shares from the Sellers relying upon the Representations and Warranties under this Agreement and would not proceed with the purchase of the Sale Shares, but for the Representations and Warranties, covenants and undertakings in this Agreement.

11.1.2 Each Representation and Warranty shall be construed as separate and independent and shall not be limited or restricted by inference from the terms of any other Representations and Warranties or any other terms of this Agreement.

11.1.3 Effects of Due Diligence

- (i) The performance by the Purchaser, its auditors and counsel of a legal, tax, financial, technical and accounting audit of the Company and other due diligence tasks carried out by them or by



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others at their request prior to or the date hereof, or the results thereof, in no way limit or exclude the liabilities of the Sellers under this Agreement and the other Transaction Documents, including under the Representations and Warranties made by them under this Clause 11.

- (ii) None of the Representations and Warranties shall be treated as qualified by any actual, implied or constructive knowledge on the part of the Purchaser or any of its respective agents, representatives, officers, employees or advisors.

11.1.4 The Sellers acknowledge and agree that it shall not be a defence to any Claim against them that the Purchaser ought to have known or had knowledge of any information relating to the circumstances giving rise to such Claim. The Sellers confirm and irrevocably undertake to the Purchaser that as of the Execution Date, First Closing Date and the Second Closing Date, the Company has not, directly or indirectly, entered into any indemnity or other agreements or arrangements pursuant to which the Company has agreed to indemnify any Seller for any inaccuracy or breach of any of the Representations and Warranties or any other provisions of this Agreement. The Sellers hereby agree to waive any right or Claim which they may have in respect of any misrepresentation or error in, or omission from, any information or opinion supplied or given by the Company and/or any of its Directors, officers, employees or agents or any of the Sellers, in the course of negotiating this Agreement and further agrees that any such right or Claim shall not constitute a defence to any Claim by the Purchaser under or in relation to this Agreement.

11.1.5 Seller I hereby represents and warrants to the Purchaser, subject to the Disclosure Letter, that ("Seller I Primary Warranties"):

- (i) Seller I is the legal and beneficial owner of the Sale Shares, with the Other Sellers holding their Respective Seller Sale Shares for and on behalf of Seller I. The Sellers have the right to transfer to the Purchaser the full legal and beneficial ownership in the Sale Shares free from any Encumbrances (save and except the Vistra Pledge in respect of the First Closing Sale Shares (as on the Execution Date) and the pledge over the Seller I Second Closing Shares created in favour of the Lenders for securing the Continuing Loans) in accordance with the provisions herein. Upon the transfer of the First Closing Sale Shares to the Purchaser by the Sellers on the First Closing Date and transfer of the Seller I Second Closing Sale Shares to the Purchaser by Seller I on the Second Closing Date, the Purchaser shall have marketable title to and shall be the sole legal and beneficial owner of the First Closing Sale Shares and the Seller I Second Closing Sale Shares, respectively, free from any Encumbrance (save and except the pledge over the Seller I Second Closing Shares created in favour of the Lenders for securing the Continuing Loans);
- (ii) Sale Shares constitute 100% (One Hundred percent) of the issued, subscribed and paid up share capital as on the Execution Date and immediately prior to First Closing;
- (iii) Sale Shares are validly issued and are fully paid-up and all necessary Consents required for such issuance have been obtained and are in full force and effect;
- (iv) there are no agreements, of any nature whatsoever, entered into by, or binding upon, the Company or the Sellers that can, either now or at any time in the future and whether contingently or not, be converted into or exchanged for shares or securities of the Company, or which entitle or may entitle any Person to subscribe to or receive any shares or securities of the Company at present or at a later date or which require or may require the Company to issue any shares or securities or rights convertible into or exchangeable for shares or securities of the Company or



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warrants or rights to purchase or acquire any shares or securities of the Company, and no Person has claimed to be entitled to any of the foregoing.

- (v) the Company is a juristic entity, duly incorporated and organized and existing under the Laws of India;
- (vi) copies of the Charter Documents of the Company that have been provided to the Purchaser are true, and complete in all respects. No agreement explicitly or by inference or implication modifies the rules set forth in the Articles, whether or not such agreement is enforceable *vis à vis* third parties;
- (vii) the Company has the legal right, power and authority to enter into, execute, deliver the Transaction Documents and perform its obligations thereunder. The Transaction Documents will constitute its legal, valid and binding obligations and shall be enforceable against it in accordance with its terms;
- (viii) execution, delivery and the performance, by the Company of the Transaction Documents and the performance by the Company of its obligations contemplated thereunder has been duly authorised by all necessary corporate or other action on behalf of the Company;
- (ix) execution, delivery and the performance, by it and the Company of the Transaction Documents and the respective obligations in relation to the transactions contemplated therein will not (as applicable):
 - (a) breach or constitute a default under Charter Documents of the Company;
 - (b) result in a violation or breach of or default under any Applicable Law applicable to the Company;
 - (c) breach or constitute a default of any award, order, decree or other judicial pronouncement of any arbitrator or any Governmental Authority; or
 - (d) breach or constitute default of any agreement or undertaking by which it is bound (except to the extent that consents or intimations are specifically required under the Transaction Documents prior to the First Closing);
- (x) no liquidation, dissolution, winding up, commencement of bankruptcy, insolvency, liquidation or similar proceedings, whether voluntary or involuntary, with respect to any Seller or the Company, or any of their respective properties or assets, is pending or, to the knowledge of Seller I, threatened. No receiver, manager, provisional liquidator, liquidator or other officer of the court with respect to any Seller, or the Company, or any of their respective properties or assets, has been appointed, or threatened to be appointed; and
- (xi) there are no Claims or proceedings (including Tax related proceedings) before any Governmental Authority in progress or pending against or relating to the Sellers which could be expected to enjoin, restrict or prohibit the sale of the Sale Shares as contemplated by this Agreement or prevent the Sellers from fulfilling their obligations set out in this Agreement, and there are no existing grounds, to the knowledge of Seller I, on which any such Claim, investigation or proceeding might be commenced. The Sellers have duly discharged all undisputed Claims made by any Tax Authority under Applicable Laws.

11.1.6 Each of the Other Sellers hereby represents and warrants to the Purchaser that ("Other Sellers



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Primary Warranties”):

- (i) such Other Seller is the legal owner of the Respective Seller Sale Shares, holding his Respective Seller Sale Shares for and on behalf of Seller I. Such Other Seller has the right to transfer to the Purchaser, the full legal ownership in the Respective Seller Sale Shares free from any Encumbrances in accordance with the provisions herein (other than in respect of the Vistra Pledge as on the Execution Date). Upon the transfer of the Respective Seller Sale Shares to the Purchaser by the Other Seller, the Purchaser shall have marketable title to and shall be the sole legal and beneficial owner of the Respective Seller Sale Shares, free from any Encumbrance;
- (ii) the Respective Seller Sale Shares held by the Other Seller are validly issued and are fully paid-up and all necessary Consents required for such issuance have been obtained and are in full force and effect;
- (iii) there are no agreements, of any nature whatsoever, entered into by, or binding upon, the Company or the Other Seller that can, either now or at any time in the future and whether contingently or not, be converted into or exchanged for shares or securities of the Company, or which entitle or may entitle any Person to subscribe to or receive any shares or securities of the Company at present or at a later date or which require or may require the Company to issue any shares or securities or rights convertible into or exchangeable for shares or securities of the Company or warrants or rights to purchase or acquire any shares or securities of the Company, and no Person has claimed to be entitled to any of the foregoing;
- (iv) no liquidation, dissolution, winding up, commencement of bankruptcy, insolvency, liquidation or similar proceedings, whether voluntary or involuntary, with respect to the Other Seller or the Company, or any of their respective properties or assets, is pending or, to the knowledge of the Other Seller, threatened. No receiver, manager, provisional liquidator, liquidator or other officer of the court, with respect to the Other Seller, or the Company, or any of their respective properties or assets, has been appointed, or threatened to be appointed;
- (v) the Other Seller has the legal right, power and authority to enter into, execute, deliver the Transaction Documents and perform his obligations thereunder. The Transaction Documents will constitute his legal, valid and binding obligations and shall be enforceable against him in accordance with its terms;
- (vi) the Other Seller has authorized Mr. Hitesh Mehta, son of Mr. Pranjivan Mehta, resident of F-202, Krishna Residency, Sundar Nagar, Malad West, Mumbai - 400064, the constituted attorney for executing this Agreement and the other Transaction Documents on behalf of the Other Seller and representing interest and exercising his rights and obligations under this Agreement and the other Transaction Documents. The constituted attorney has the full legal right, power, authority and capacity to execute the Transaction Documents on behalf of the Other Seller and represent and exercise his rights and obligations under this Agreement and the other Transaction Documents. All actions on the part of the Other Seller required to be taken in order to authorize the constituted attorney to represent the Other Seller and exercise his rights and obligations under this Agreement and the other Transaction Documents, on his behalf, are duly taken and completed, and the same is valid and in full force and effect;
- (vii) execution, delivery and the performance, by him of the Transaction Documents and the respective obligations in relation to the transactions contemplated therein will not (as



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applicable):

- (a) breach or constitute a default under Charter Documents of the Company;
 - (b) result in a violation or breach of or default under any Applicable Law applicable to the Other Seller;
 - (c) breach or constitute a default of any award, order, decree or other judicial pronouncement of any arbitrator or any Governmental Authority applicable for the concerned Other Seller; or
 - (d) breach or constitute default of any agreement or undertaking by which he is bound (except to the extent that consents or intimations are specifically required under the Transaction Documents prior to the First Closing); and
- (viii) there are no Claims or proceedings (including Tax related proceedings) before any Governmental Authority in progress or pending against or relating to the Sellers which could be expected to enjoin, restrict or prohibit the sale of the Respective Seller Sale Shares as contemplated by this Agreement or prevent the Other Seller from fulfilling his obligations set out in this Agreement, and there are no existing grounds, to the knowledge of the Other Seller, on which any such Claim, investigation or proceeding might be commenced. The Other Seller has duly discharged all undisputed Claims made by any Tax Authority under Applicable Laws.

11.1.7 In addition to the Seller I Primary Warranties and the Other Sellers Primary Warranties mentioned in Clause 11.1.5 and 11.1.6 above, Seller I represents and warrants to the Purchaser with respect to matters detailed in **Schedule XI** of this Agreement ("Seller I Additional Warranties"). Notwithstanding anything to the contrary contained herein, the Excluded Assets and any and all matters pertaining thereto, shall be excluded from the scope of the Representations and Warranties and nothing contained therein shall apply to Excluded Assets and any matter pertaining thereto.

11.1.8 The Representations and Warranties as detailed in Clause 11.1.5, 11.1.6 and **Schedule XI** of this Agreement shall, except as set forth in the Disclosure Letter, be true, correct and not misleading on and as of the Execution Date and as of the First Closing Date and shall be deemed to be repeated on the Second Closing Date.

11.1.9 The Sellers acknowledge that the Representations and Warranties are deemed to be qualified by the disclosures in the Disclosure Letter only to the extent of those matters which are specifically, fully and fairly disclosed therein, which shall constitute exception to the specific numbered section of the Representations and Warranties, against each disclosure. Further, the Purchaser acknowledges that the mere inclusion of an item in the Disclosure Letter as an exception to the Seller I Additional Warranties will not be deemed to be an admission by Seller I that (i) such item represents a material exception or fact, event or circumstance; or (ii) such item actually constitutes non-compliance with, or violation of, any Applicable Law, permit or contract or other topic to which such disclosure is applicable.

11.1.10 Seller I agrees to promptly notify the Purchaser, prior to the First Closing Date and the Second Closing Date (as applicable), if it becomes aware of any fact, matter or circumstance which would cause any of the Representations and Warranties to become untrue or misleading in any respect.

11.2 Representations and Warranties of the Purchaser

11.2.1 The Purchaser hereby represents and warrants to the Sellers that:



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- (i) it is a juristic entity, is duly incorporated and organized and existing under the Laws of India;
- (ii) it has the legal right, power and authority to enter into, execute, and deliver this Agreement and the other Transaction Documents and perform its obligations hereunder and thereunder. Subject to Applicable Laws, this Agreement and the other Transaction Documents, when executed, will constitute its legal, valid and binding obligations and shall be enforceable against it in accordance with its terms;
- (iii) execution and delivery by it of this Agreement and the other Transaction Documents to which it is a party and the performance by it of its obligations contemplated hereunder and thereunder has been duly authorised by all necessary corporate or other action; and
- (iv) execution, delivery and the performance, by it of this Agreement and the other Transaction Documents and the respective obligations in relation to the transactions contemplated herein and therein will not (as applicable):
 - (a) breach or constitute a default under its Charter Documents;
 - (b) result in a violation or breach of or default under any Applicable Law;
 - (c) breach or constitute a default of any award, order, decree or other judicial pronouncement of any arbitrator or any Governmental Authority; and
 - (d) breach or constitute default of any agreement or undertaking by which it is bound.

11.2.2 The warranties provided by the Purchaser in accordance with the Clause 11.2.1 shall be true, correct and not misleading on and as of the Execution Date, the First Closing Date and the Second Closing Date.

12. INDEMNIFICATION

12.1 Indemnity Obligations of the Sellers

12.1.1 Seller I ("Indemnifying Party") hereby, undertakes to indemnify, defend and hold harmless the Purchaser and its directors, employees, representatives and the Company ("Indemnified Parties") promptly upon demand, at any time and from time to time, from and against any and all Losses which are actually sustained, incurred, suffered by or asserted against the Indemnified Parties (whether in respect of third party claims, Claims between the Parties hereto, or otherwise) from or arising out of or in connection with any or all of the following matters ("Indemnification Events"):

- (i) any fraud, wilful default or gross negligence by any of the Sellers; and/or
- (ii) any breach of the Representation and Warranties made by the Sellers in this Agreement and the other Transaction Documents, as qualified by the Disclosure Letter; and/or
- (iii) any non-fulfilment or breach or failure to perform any covenant, undertakings or obligations of any of the Sellers as set forth in this Agreement and the Escrow Agreement and such breach is not cured within 30 (Thirty) days from the date of receipt of written notice specifying the breach and requiring the same to be remedied; and/or
- (iv) any circumstances and matters identified in Schedule XII of this Agreement (*Specific Indemnities*), which for avoidance of doubt, shall not be qualified by any matters set out in the



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Disclosure Letter.

12.1.2 The Indemnifying Party's obligation to indemnify the Indemnified Parties in respect of Losses arising on account of the Indemnification Event listed at Clause 12.1.1(ii) shall be subject to the following:

- (i) No Claim shall be made against the Indemnifying Party in respect of any Losses, unless the amount of such Loss for an individual claim exceeds Rs. 10,00,000 (Rupees Ten Lakhs) in value ("De Minimis Threshold"), and such claims shall not be taken into account for computation of the Basket as mentioned hereinafter. *Provided however that* all individual Losses that arise from similar facts and circumstances and pertain to the same subject matter shall be aggregated as a single Loss for purposes of applying the De Minimis Threshold.
- (ii) The Indemnifying Party shall not be liable to indemnify any of the Indemnified Parties until the aggregate amount of all individual claims that are in excess of the De Minimis Threshold in terms of sub-clause (i) above exceed Rs. 1,20,00,000 (Rupees One Crore Twenty Lakhs) ("Basket"). Once the sum of all such individual claims exceeding the De Minimis Threshold aggregates to or exceeds the Basket, the Indemnified Parties shall be entitled to make a claim on the Indemnifying Party and be entitled to claim the whole amount and not merely the amount exceeding the Basket, subject to provisions of this Clause 12.
- (iii) The liability of the Indemnifying Party to indemnify and keep any Indemnified Parties indemnified for Indemnification Event listed under Clause 12.1.1(ii) shall cease to be applicable upon the expiry of the following time periods:
 - (a) For any Losses in relation to any Indemnification Event pertaining to breach of Representation and Warranties other than those relating to (I) Seller I Primary Warranties; (II) Other Sellers Primary Warranties; (III) Paragraph 7 of Schedule XI ("Tax Warranties") of this Agreement: 3 (Three) years from the Second Closing Date; and
 - (b) For any Losses in relation to any Indemnification Event pertaining to breach of Tax Warranties: 8 (Eight) years from the Second Closing Date;

It is clarified that the Indemnified Parties shall be entitled to make an indemnification claim on the Indemnifying Party prior to the expiry of the 3rd (Third) year or 8th (Eighth) year (as the case may be) from the Second Closing Date, for all claims having accumulated in the Basket in accordance with the Clause 12.1.2(ii) above, notwithstanding such amount not exceeding the Basket.

- (iv) The aggregate liability of the Indemnifying Party to indemnify and keep the Indemnified Parties indemnified pursuant to this Clause 12 for breach of Representations and Warranties (other than the Seller I Primary Warranties and the Other Sellers Primary Warranties), shall be subject to monetary limit of an amount equivalent to Rs. 75,00,00,000 (Rupees Seventy Five Crores) ("Overall Cap") and shall not exceed the Overall Cap for any reason whatsoever, and indemnity as provided under this Clause 12 shall be the exclusive monetary remedy available to the Purchaser.
- (v) Notwithstanding anything contained in this Clause 12, the limitation of liability with respect to the time duration and monetary thresholds as specified in Clause 12.1.2(iii) and (iv) above shall not be applicable in respect of Losses on account of matters mentioned below in this Clause



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12.1.2(v). The aggregate liability of the Indemnifying Party with respect to Losses on account of matters mentioned below in this Clause 12.1.2(v) shall be uncapped in respect of Losses arising out of or in relation to (a) breach of Seller I Primary Warranties and/or Other Sellers Primary Warranties; (b) any fraud, willful misconduct or gross negligence by any Seller; and (c) breach of the Sellers' obligations/covenants under the Transaction Documents.

- (vi) Notwithstanding anything contained in this Clause 12, the limitation of liability with respect to monetary thresholds as specified in Clause 12.1.2(iii) and (iv) above shall not be applicable in respect of Losses arising out of events mentioned in Schedule XII of this Agreement (*Specific Indemnities*). *Provided however that*, the liability of the Indemnifying Party to indemnify and keep any Indemnified Party indemnified for Losses arising on account of (a) events mentioned in Schedule XII of this Agreement (*Specific Indemnities*), other than events mentioned in Paragraphs 6, 12, 13, 14 and 15 of Schedule XII of this Agreement (*Specific Indemnities*), shall cease to be applicable upon the expiry of 3 (Three) years from the Second Closing Date; (b) events mentioned in Paragraphs 12, 13, 14 and 15 of Schedule XII of this Agreement (*Specific Indemnities*), shall cease to be applicable upon the expiry of 8 (Eight) years from the Second Closing Date; and (c) events mentioned in Paragraph 6 of Schedule XII of this Agreement (*Specific Indemnities*), shall survive in perpetuity.

12.2 Indemnification Procedure

12.2.1 Any Claim for indemnification pursuant to this Agreement may be asserted by the Purchaser/Indemnified Parties by written notice to the Indemnifying Party ("**Indemnity Notice**"), within 30 (Thirty) days of becoming so aware, stating the amount of Losses and basis for arriving at such amount; *provided however that* the failure to so notify shall not release, waive or otherwise affect the any Indemnifying Party's obligations with respect thereto. *Provided further that* in the event liability of the Indemnifying Party is increased or escalated on account of the delay or failure of notification by the Indemnified Parties as mentioned above, then in such event the Indemnifying Party shall not be liable to the increased Losses and incremental prejudice.

12.2.2 Subject to the other provisions contained herein, the obligation of the Indemnifying Party to indemnify the Indemnified Parties pursuant to this Clause 12 shall arise immediately upon the Loss being actually suffered or incurred by, accrued to or asserted against the Indemnified Parties, and the Indemnifying Parties shall, in the event the Indemnifying Party does not intend to dispute the Claims raised by the Indemnified Parties in the Indemnity Notice, make available the necessary funds and indemnify the Indemnified Parties immediately, and in no event later than 30 (thirty) days of the delivery of the Indemnity Notice, for the relevant amount of the indemnity claim. In the event the Indemnifying Party decides at its option to contest the Indemnified Party's claim (other than Third Party Actions), then the dispute shall be resolved by arbitration subject to the provisions of Clause 17 hereto and the Indemnifying Party shall not be liable to make payment of any amounts under this Clause 12 until the receipt of a final arbitration award issued pursuant to Clause 17. It is agreed that in the event of Claims arising *inter-se* the Indemnifying Party and the Indemnified Parties, the Indemnifying Party shall exercise its right to dispute the Claims raised by the Indemnified Parties in good faith and take all measures to ensure timely resolution of the disputes; *provided that* if any delays are caused in the resolution of the disputes for reasons attributable to the Indemnifying Party, the Indemnifying Party shall in addition to the claim amount (as adjudicated under Clause 17 of this Agreement), be liable to the Indemnified Parties for an amount equivalent to interest at the rate of 12% (Twelve Percent) per annum on the claim amount (as adjudicated under Clause 17 of this Agreement), calculated from the date of Indemnity Notice till the date of actual payment of the interest amount by the Indemnifying



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Party to the Indemnified Parties.

12.2.3 In the event that any payments to be made by the Indemnifying Party to any of the Indemnified Parties under this Clause 12 or otherwise in terms of this Agreement, are, subject to any Taxes, or such amount (to be paid) is otherwise subject to Tax in the hands of a relevant Indemnified Party, the Indemnifying Party shall, subject to this Clause 12.2.3, increase/gross up the amount to be paid by it to the relevant Indemnified Party by such additional amount as is necessary to ensure receipt by the Indemnified Party of the full amount due, had no such taxes such Taxes applied on such payment ("Grossed Up Indemnity Amount"). If upon determination of its Tax liability by the Indemnified Party (quarterly, bi-annually or annually, as the case may be), the Tax payable by the Indemnified Party includes Tax liability in relation to the amount of indemnity claims received/recovered by it, the Indemnified Party shall deliver the relevant calculations to the Indemnifying Party for verification thereof. Within 2 (Two) days of receipt of the accounts and the relevant documents by the Indemnifying Party from the Indemnified Party, the Indemnifying Party shall verify the Tax liability determined by the Indemnified Party and either issue its objection or acceptance to the same. In the event the Indemnifying Party issues its objection to the Tax liability determined by the Indemnified Party, the Purchaser shall obtain an opinion/certificate issued by one of the Big 5 Accounting Firms or an independent chartered account of repute that is acceptable to the Indemnifying Party, at the cost of the Indemnifying Party, verifying the calculation provided by the Purchaser of the Tax liability. In the event the independent chartered account opines that there will be Tax incidence on the indemnity amount, then the Indemnifying Party shall pay the Indemnified Party the Grossed Up Indemnity Amount. Further, to the extent such Taxes are required to be deducted or withheld, the Indemnifying Party shall: (i) make such deduction or withholding on the Grossed Up Indemnity Amount as determined pursuant to the immediately preceding sentence; (ii) remit such Taxes to the appropriate Governmental Authority; and (iii) provide the Indemnified Parties with an original counterpart of a receipt evidencing payment thereof within 2 (Two) days after such payment is made.

12.2.4 Third Party Action

- (i) If an Indemnified Party receives any claim, action or demand by a third party ("Third Party Action Notice") that could give rise to an indemnity claim against the Indemnifying Party ("Third Party Action"), such Indemnified Party shall issue a written notice to the Indemnifying Party within 30 (Thirty) days, from the date of the Indemnified Party becoming aware of such matter together with all reasonable details as are then available of the matter giving rise to the indemnity claim ("Claim Notice").
- (ii) The Indemnifying Party shall within 30 (Thirty) days from the date of Claim Notice (or such other shorter time as is mentioned in the Third Party Action Notice) issue a reply to the Indemnified Party, informing the Indemnified Party of the Indemnifying Party's intention to either: (a) accept the claim of the Indemnified Party; or (b) dispute the Third Party Action. If the Indemnified Party's claim is accepted by the Indemnifying Party, or the Indemnifying Party does not contest the Indemnified Party's claim within the period of 30 (Thirty) days from the date of the Claim Notice (or such other shorter time as is mentioned in the Third Party Action Notice), the Indemnifying Party shall forthwith, but not later than 15 (Fifteen) days, make payment to the Indemnified Party of the claim amount. It is clarified that Indemnifying Party's right to not dispute the Third Party Action and make payment of the indemnity claim amount to the Indemnified Party(ies), shall not in any way prejudice the right of the Indemnified Party to dispute/litigate the Third Party Action. Further, notwithstanding the right of the Indemnifying Party to dispute the Third Party Action, in the event the Third Party Action is of a nature that



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the Indemnified Party is required to by Applicable Law to make payment to the third party with respect to the Third Party Action before the completion of settlement or related legal proceedings, then the Indemnified Party shall have the right to require the Indemnifying Party to make such payment forthwith to either the third party (within the time prescribed under Applicable Law) or, if the payment has been made by the Indemnified Party to the third party, to the Indemnified Party not later than 15 (Fifteen) days from the date of payment by the Indemnified Party to the third party, along with interest at the rate of 12% (Twelve Percent) on the amount paid by the Indemnified Party to the third party, calculated from the date of payment by the Indemnified Party to such third party till the date of actual payment by the Indemnifying Party to the Indemnified Party of the aforesaid amount.

- (iii) In the event the Indemnifying Party disputes the Third Party Action, the Indemnified Party shall have the right to assume the defence of such Third Party Action and retain legal advisors of its choice at the reasonable cost and expense of the Indemnifying Party and the Indemnifying Party shall remain entirely responsible for the prompt payment of all reasonable costs associated with defending such Third Party Action (including all reasonable legal fee). The Indemnified Party shall run the claim diligently and in good faith, and shall not make any settlement or compromise towards a Third Party Action without consent of the Indemnifying Party, which consent should not be unreasonably withheld or delayed. The Indemnifying Party 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 Indemnified Party shall take reasonable account of the views of the Indemnifying Party prior to any admission, settlement or compromise in respect of Third Party Action and in the event the Indemnifying Party is not satisfied with the defence or the manner in which the claim is being run by the Indemnified Party, then the Indemnifying Party shall be entitled to suggest an alternative approach, which shall be considered by the Indemnified Party in good faith.
- (iv) The Purchaser and the Indemnifying Party agree that they shall provide all reasonable assistance to the other in defence or negotiation of any Third Party Action.
- (v) In the event the Indemnifying Party (along with the Indemnified Party) has disputed the Third Party Action in accordance with sub-clause (iii) above, and a judgement/order/décree (whether final or interim, as the case may be) is passed in relation to such dispute ("Third Party Dispute Order"), the Indemnifying Party may request the Indemnified Party to file an application challenging the Third Party Dispute Order and obtain an injunction/interim relief against such Third Party Dispute Order. If the Indemnified Party, after evaluating the Indemnifying Party's proposal in good faith, consents to filing of the application as mentioned above, and is (a) unable to obtain an injunction or interim relief, within the time prescribed by Applicable Law, as provided in the immediately preceding sentence; or (b) is successful in obtaining the injunction/interim relief in relation to the Third Party Dispute Order within the time prescribed by Applicable Law, but is required to deposit any amounts with the relevant Governmental Authority or such other Person as is required under such injunction/interim relief order or the Third Party Dispute Order (as may be applicable), then the Indemnified Party shall have the right to (x) require the Indemnifying Party to make payment to the third party as directed under the Third Party Dispute Order or as directed under the injunction/interim relief order (as applicable), within the time prescribed therein; or (y) if the payment has been made by the Indemnified Party to the third party as directed under the Third Party Dispute Order or as directed under the injunction/interim relief order (as applicable), to the Indemnified Party not



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later than 15 (Fifteen) days from the date of payment by the Indemnified Party to the third party, along with interest at the rate of 12% (Twelve Percent) on the amount paid by the Indemnified Party, calculated from the date of payment by the Indemnified Party till the date of actual payment by the Indemnifying Party to the Indemnified Party of the aforesaid amount.

- 12.2.5 If the Indemnifying Party is required to obtain any Governmental Approval as a condition to the Indemnifying Party's obligation to pay all or any portion of the Losses to the Indemnified Parties, then the Indemnifying Party shall use its reasonable endeavours to obtain such Governmental Approval in an expeditious manner.
- 12.2.6 Any compensation or indemnity as referred to in this Clause 12 shall be such as to place the Indemnified Parties in the same position as they would have been, had any such Indemnification Event not occurred.
- 12.2.7 The Indemnifying Party undertake to the Indemnified Parties for itself and as trustee for the Directors, officers and agents, and the employees of the Company, to waive any rights, remedies or Claims which they may have in respect of any misrepresentation, inaccuracy or omission in or from any information or advice supplied or given by their Directors, officers or agents or employees in connection with assisting the Indemnifying Parties in the giving of any Representations and Warranties.
- 12.2.8 It is clarified that any Losses incurred by the Company shall be deemed to be Losses incurred and suffered directly by the Purchaser. For avoidance of doubt, it is clarified that in relation to any indemnity payments to be made by any Indemnifying Party in connection with any Losses under this Clause 12, the Purchaser may, at its sole discretion, determine whether such indemnity payment should be paid by the Indemnifying Party either to (i) the Indemnified Parties themselves; or (ii) directly to the Company.
- 12.2.9 Each Indemnifying Party and the Directors of the Company prior to the Second Closing Date, hereby, waives all its rights and remedies under the Applicable Law in respect of any contribution or reimbursement or restitution from the Company in respect of any amounts that the Indemnifying Party pays to the Indemnified Parties under this Clause 12.
- 12.2.10 For the avoidance of doubt, it is clarified that if any Loss is based upon a liability which is contingent only, then the Indemnifying Party shall not be liable to pay unless and until such contingent liability gives rise to an obligation to make a payment or the Indemnified Party suffers a Loss.
- 12.2.11 In respect of any Loss, for which payment has been made by the Indemnifying Party to an Indemnified Party under this Clause 12 and an amount of such Loss is subsequently reimbursed to such Indemnified Party then the amount of Loss that is recovered by the Indemnified Party shall be refunded to the Indemnifying Party (net of any costs, expenses and Taxes actually incurred in respect of such Loss by the Indemnified Party).
- 12.2.12 The Indemnifying Party's liability for indemnification towards breach of Representations and Warranties shall be limited only to such Losses that pertain to the period with respect to which such Representations and Warranties are issued irrespective of whether the Loss arises prior to or after such date.
- 12.2.13 The Indemnified Parties shall not be entitled to be indemnified more than once in respect of the same Loss for which the Indemnified Parties have already been indemnified in terms of this Agreement,



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but, for the avoidance of doubt, the Indemnified Party shall be entitled to recover all Losses incurred out of the same underlying facts or circumstances, notwithstanding that such Losses may not have been discovered and the Indemnified Party may not receive all notices thereof at the same time.

12.2.14 Insured claims. The liability to indemnify will not arise in respect of any claim/Loss to the extent that the amount of such claim is covered by a policy of insurance and paid pursuant thereto. *Provided that*, in cases where such claim is covered by a policy of insurance and paid for by the insurer, the liability of the Indemnifying Party shall be reduced by the amount of money actually and finally recovered under such policy of insurance. It is clarified that nothing contained in the foregoing shall require the Indemnified Party to maintain any specific insurance policy. Further, the said provision shall not affect the liability of the Indemnifying Party to make the payment in case the liability *vis-à-vis* the Indemnified Party has actually crystallised and become payable.

12.2.15 No liability for legislation or changes in rates of Tax. The liability to indemnify shall not arise for any claim/Loss if and to the extent it is attributable to, or the amount of such claim is increased as a result of, any: (i) legislation not in force at the First Closing Date; (ii) change of Law post the First Closing Date; or (iii) change in the rates of Taxation in force at the First Closing Date.

12.2.16 Voluntary Acts and Omissions. No liability shall attach to Indemnifying Party in respect of any claim made by any Indemnified Party to the extent that such claim would not have arisen but for an omission or a voluntary act (other than an omission or act carried out pursuant to a legally binding obligation created on or before the First Closing Date) solely attributable to the Indemnified Party acting unreasonably occurring after the First Closing Date.

13. TERM AND TERMINATION

13.1 This Agreement shall come into effect on the Execution Date.

13.2 This Agreement may be terminated prior to the Closing Date:

- (i) by Seller I or the Purchaser if the Second Closing does not occur by the Long Stop Date; or
- (ii) by mutual written agreement of the Parties; or
- (iii) by the Purchaser or Seller I, in accordance with Clause 6.1.6 or 6.1.7 respectively (as applicable to First Tranche Conditions Precedent and Second Tranche Conditions Precedent) and Clause 10.6 of this Agreement; or
- (iv) by any Party in accordance with Clause 6.1.8 of this Agreement; or
- (v) by the Purchaser, if the First Updated Disclosure Letter or the Second Updated Disclosure Letter, as the case may be, is not to the satisfaction of the Purchaser; or
- (vi) if any Governmental Authority or Lender takes any action or makes any determination prohibiting (or declining to approve) the transactions as and in the manner and form contemplated under this Agreement.

13.3 Subject to other terms of this Agreement (including Clause 12 above), the Parties shall be entitled to all such rights and remedies which are available to them under Applicable Laws, equity or otherwise



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including such other rights and remedies as may be mutually agreed between the Parties in this Agreement, for breach of the terms of this Agreement. The rights specified in this Clause 13 shall be in addition to and not in substitution for any other remedies that may be available to the Parties.

13.4 Unless specified otherwise under the terms hereof, the expiry/termination of this Agreement shall be subject to no Party having any Claims and any accrued rights or rights of action previously accrued to any Party under the terms hereof, against the other Parties.

13.5 Notwithstanding the above, Clause 11 (*Representations and Warranties*), Clause 5.11, Clause 6.1.6, Clause 6.1.7, Clause 10.6 (as applicable), Clause 12 (*Indemnity*), Clause 14 (*Notices*), Clause 15 (*Confidentiality*), Clause 16 (*Governing Law*), Clause 17 (*Dispute Resolution*), Clause 18 (*Cost and Expenses*) and Clause 19 (*Miscellaneous*) of this Agreement shall survive the expiry or earlier termination of this Agreement. Any provision and obligation of the Parties relating to or governing their acts, which expressly or by its nature survives such termination or expiration, shall be enforceable with full force and effect notwithstanding such termination or expiration, until it is satisfied in full or by its nature expires.

14. NOTICES

14.1 Each notice, demand or other communication given or made under this Agreement and the other Transaction Documents shall be in writing and delivered or sent to the relevant Party at its address and email address set out below (or such other address or email address as the addressee has by 5 (five) Business Days' prior written notice specified to the other Parties). Any notice, demand or other communication so addressed to the relevant Party shall be deemed to have been delivered upon receipt of an email by the recipient and/or a registered post or courier (which shall be deemed delivered on the earlier of, the date of actual receipt or the 7th (Seventh) Business Day following posting).

The initial addresses for the Parties for the purposes of the Agreement are:

If to the Purchaser:

Name : Hero Solar Energy Private Limited
Address : Plot no. 201, First Floor, Okhla Industrial Estate,
Phase - III, New Delhi - 110020
Attention : Mr. Naveen Khandelwal
Telephone : +91 11 49598013
Email : naveen.khandelwal@herofutureenergies.com

with a copy to:

Attention : Mr. Mayur Maheshwari
Address : Plot no. 201, First Floor, Okhla Industrial Estate,
Phase - III, New Delhi - 110020
Email : mayur.maheshwari@herofutureenergies.com

If to the Sellers

Address : 230-232, Somdutt Chamber 2, Bhikaji Cama Place, New Delhi - 110066
Attention : Mr. Hitesh Mehta



[Handwritten signatures]



Telephone : +91 22 6644 4455
Email : hiteshmehta@waarec.com

If to the Company

Prior to Second Closing Date:

Address : 230-232, Somdutt Chamber 2, Bhikaji Cama Place, New Delhi - 110066
Attention : Mr. Mayank Shah
Telephone : +91 22 4333 1515
Email : mayankshah@waarec.com

With a copy to the Purchaser

On and From Second Closing Date:

Address : 230-232, Somdutt Chamber 2, Bhikaji Cama Place, New Delhi - 110066
Attention : Mr. Naveen Khandelwal
Telephone : +91 1149598013
Email : naveen.khandelwal@herofutureenergies.com

15. CONFIDENTIALITY

15.1 Each Party agrees and undertakes that it shall not reveal, and shall use its reasonable efforts to ensure that its directors, officers, members, managers and other key managerial personnel, partners, employees, affiliates, legal, financial and professional advisors and bankers (collectively, "Representatives") to whom Confidential Information is made available, do not reveal, to any third party, any Confidential Information, without the prior written consent of the other Party. The term "Confidential Information" as used in this Agreement means:

- (i) any proprietary information of a Party and information concerning the organization, business, business plans, business process, research or development projects, technology, trade secrets, know-how, technical and marketing information, intellectual property rights, price sensitive information, finance, transactions or affairs of a Party or any of its Representatives (whether conveyed in written, oral or in any other form and whether such information is furnished before, on or after the Execution Date);
- (ii) any information whatsoever concerning or relating to: (a) this Agreement and the other Transaction Documents; (b) any dispute or claim arising out of, or in connection with, this Agreement and the other Transaction Documents; or (c) the resolution of such claim or dispute; and
- (iii) any information or materials prepared by, or for, a Party or its Representatives, that contain or otherwise reflect, or are generated from, Confidential Information,

whether communicated in physical form or electronic mode, and includes copies thereof.

15.2 None of the Parties shall issue any public release or public announcement or otherwise make any disclosure concerning this Agreement and the other Transaction Documents and/or the transactions



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herein and therein, without the prior approval of the other Parties.

- 15.3 The receiving Party agrees to use the Confidential Information only for the purpose for which it was disclosed and all such Confidential Information shall be held in confidence by the receiving Party and, except as set out above, shall not be disclosed to any third party without the prior approval of the disclosing Party. The receiving Party shall use the same standard of care to protect the Confidential Information as it uses to protect similar types of confidential information which the receiving Party receives in connection with the evaluation or implementation of documents similar to this Agreement, but in no case less than a reasonable degree of care (excluding the need to take any legal action).
- 15.4 All Confidential Information disclosed by a disclosing Party shall remain the sole and exclusive property of the disclosing Party. The disclosing Party shall retain all the right, title and interest in and to its Confidential Information.
- 15.5 Nothing in this Clause 15 shall restrict any Party from disclosing Confidential Information for the following purposes:
- (i) to the extent that such Confidential Information is in or enters the public domain other than by breach of this Agreement;
 - (ii) subject to compliance with this Clause 15, to the extent that such Confidential Information is required to be disclosed under any Applicable Law or required to be disclosed to any Governmental Authority to whose jurisdiction such Party is subject or with whose instructions it is customary to comply in which case before such Party discloses any Confidential Information, it shall (to the extent practicable and permitted by law) inform the Party whose Confidential Information is the subject matter of disclosure, (a) full circumstances and the Confidential Information required to be disclosed to enable the disclosing Party to take appropriate steps to avoid or limit disclosure; and (b) cooperate with the disclosing Party to the extent that the disclosing Party may seek to limit (if it so decides) such disclosure including taking all reasonable steps to resist or avoid the applicable requirement;
 - (iii) to the extent that any of such Confidential Information is/are later acquired by such Party from a source not obligated to any other Party hereto to keep such Confidential Information confidential;
 - (iv) insofar as such disclosure is reasonably necessary to such Party's employees, consultants, directors or professional advisers, provided that such Party shall make reasonable efforts to ensure (excluding the need to take any legal action) that such employees, consultants, directors or professional advisers treat such Confidential Information as confidential, and such Party will be responsible for breach of the confidentiality obligations by such employees, consultants, directors or professional advisers who have not entered into appropriate non-disclosure obligations. For the avoidance of doubt, it is clarified that disclosure of information to such employees, consultants, directors or professional advisers shall be permitted on a strictly "need-to-know basis";
 - (v) to the extent that any of such Confidential Information was previously known or already in the lawful possession of such Party, prior to disclosure by any other Party hereto;
 - (vi) to the extent that any information, materially similar to the Confidential Information, shall have



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been independently developed by such Party without reference to any Confidential Information furnished by any other Party hereto; and

- (vii) to the extent that Confidential Information is required to be disclosed by the Company and Purchaser in relation to any investment in the Company or to a proposed transferee of shares of the Company.

- 15.6 Subject to Clause 15.4(ii) of this Agreement, any public release or public announcement (including any press release, conference, advertisement, announcement, professional or trade publication, mass marketing materials or otherwise to the general public) by any Party containing references to the Purchaser or the investment made by the Purchaser in the Company, shall require the prior written consent of the other Parties which consent shall not be unreasonably withheld. Any request for such prior written consent shall be made at least 2 (Two) weeks prior to any public release or announcement.

16. GOVERNING LAW

This Agreement and the other Transaction Documents and the relationship between the Parties hereto shall be governed by, and interpreted in accordance with, the laws of India. Subject to Clause 17, the courts of New Delhi, India shall have exclusive jurisdiction on all matters relating to or arising in connection with this Agreement and the other Transaction Documents or the interpretation thereof.

17. DISPUTE RESOLUTION

- 17.1 In the event a dispute, difference, claim or controversy arises in connection with the interpretation or implementation of this Agreement and the other Transaction Documents or the performance of any obligation hereunder and thereunder (each a "Dispute"), the Parties shall attempt in the first instance to resolve such dispute through friendly consultations.
- 17.2 If the Dispute is not resolved through friendly consultations within 30 (Thirty) days from the date of commencement of discussions or such longer period as the Parties agree in writing, then either Party may invoke this arbitration clause under notice to the other. The Dispute shall then be referred to and finally resolved by arbitration in accordance with the succeeding provisions of this Clause 17.
- 17.3 If the Dispute is not resolved as aforesaid, then such Dispute shall be referred to arbitration before 1 (One) arbitrator appointed jointly by the Parties, failing which the Purchaser shall be entitled to appoint 1 (One) arbitrator and the Sellers (who are a party to the Dispute) shall be entitled to collectively appoint 1 (One) arbitrator and the 2 (Two) arbitrators so appointed shall jointly appoint a third arbitrator who shall preside as the chairman, failing which such third arbitrator shall be appointed in accordance with the (Indian) Arbitration and Conciliation Act, 1996 (as amended from time to time).
- 17.4 All arbitration proceedings shall be conducted in the English language in accordance with the (Indian) Arbitration and Conciliation Act, 1996 (as amended from time to time) and the place of arbitration shall be New Delhi. The arbitrators shall decide any such dispute or claim strictly in accordance with the governing law specified in Clause 16 above. Judgement upon any arbitral award rendered hereunder may be entered in any court having jurisdiction, or application may be made to such court for a judicial acceptance of the award and an order of enforcement, as the case may be.
- 17.5 Each Party to the dispute shall co-operate in good faith to expedite (to the maximum extent practicable) the conduct of any arbitral proceedings commenced under this Agreement.



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- 17.6 The costs and expenses of the arbitration, including, without limitation, the fees of the arbitration and the arbitration board, shall be borne equally by the Parties to the Dispute and each Party to such Dispute shall pay its own fees, disbursements and other charges of its counsel, except as may be determined by the arbitration board. The arbitration panel shall have the power to award interest on any sum awarded pursuant to the arbitration proceedings and such sum would carry interest, if awarded, until the actual payment of such amounts.
- 17.7 Any award made by the arbitration panel shall be final and binding on each of the Parties to the Dispute.
- 17.8 When any Dispute is under arbitration, except for the matters under Dispute, the Parties shall continue to exercise their remaining respective rights and fulfil their remaining respective obligations under this Agreement and the other Transaction Documents.

18. COSTS AND EXPENSES

- 18.1 All costs and expenses in relation to (i) payment of any stamp duty on this Agreement shall be borne by the Purchaser; and (ii) transfer of Equity Shares of the Company (as may be applicable), payment of stamp duty on the Escrow Agreement, and any fees to be paid to the Escrow Agent under the terms of the Escrow Agreement, shall be borne by the Purchaser and Seller I in equal proportions.
- 18.2 Except as otherwise provided in this Agreement and the other Transaction Documents, each Party shall bear its own legal, accounting, professional and advisory fees, commissions and other costs and expenses incurred by it in connection with this Agreement and the other Transaction Documents and the transactions contemplated herein and therein. It is however clarified that any cost, expenses, Taxes incurred by the Company and/or Sellers (and charged to the Company) in relation to (i) execution and delivery of this Agreement and the other Transaction Documents; (ii) performance or completion of transactions contemplated under this Agreement and the other Transaction Documents; and (iii) completion of the Conditions Precedent (as provided in Schedule V of this Agreement), shall be borne by the Sellers.
- 18.3 All costs, expenses, fees, charges, etc. in relation to execution and delivery (including payment of stamp duty and registration charges) of the Power of Attorney shall be borne by Seller I.

19. MISCELLANEOUS

19.1 Independent Rights

Each of the rights of the Parties under this Agreement and the other Transaction Documents are independent, cumulative and without prejudice to all other rights available to them, and the exercise or non-exercise of any such rights shall not prejudice or constitute a waiver of any other right of a Party, whether under the Transaction Documents or otherwise.

19.2 Counterparts

This Agreement and the other Transaction Documents may be executed in any number of originals or counterparts, each in the like form and all of which when taken together shall constitute one and the same document, and any Party may execute this Agreement and the other Transaction Documents by



signing any one or more of such originals or counterparts. Delivery of an executed counterpart via facsimile or electronic mail in portable document format (.pdf) shall constitute delivery of an originally signed counterpart hereto.

19.3 Amendment/Variation

No amendment or variation of this Agreement and the other Transaction Documents shall be binding on any Party unless such variation is in writing and duly signed by all the Parties.

19.4 No Assignment

Subject to the provisions of this Agreement and the other Transaction Documents, this Agreement and the other Transaction Documents are personal to the Parties and no third party beneficiaries are intended to be created hereby (whether express or implied) by any Party hereto and this Agreement and the other Transaction Documents shall not be capable of assignment, without the prior written consent of the other Parties, provided that the Purchaser may assign its rights and obligations under this Agreement and the other Transaction Documents to any of its affiliates without any prior written consent of the other Parties by providing a prior written notice of such assignment at least 30 (Thirty) Business-Days to the other Parties.

19.5 Covenants Reasonable

The Parties agree that, having regard to all the circumstances, the covenants contained herein are reasonable and necessary for the protection of the Parties and their affiliates. If any such covenant is held to be void as going beyond what is reasonable in all the circumstances, but would be valid if amended as to scope or duration or both, the covenant will apply with such minimum modifications regarding its scope and duration as may be necessary to make it valid and effective.

19.6 Waiver

No waiver of any breach of any provision of this Agreement and the other Transaction Documents shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof, and no waiver shall be effective unless made in writing and signed by an authorised representative of the waiving Party.

19.7 Severability

Each and every obligation under this Agreement and the other Transaction Documents shall be treated as a separate obligation and shall be severally enforceable as such in the event of any obligation or obligations being or becoming unenforceable in whole or in part. To the extent that any provision(s) of this Agreement (or the other Transaction Documents) are unenforceable, they shall be deemed to be deleted from this Agreement (or the other Transaction Documents, as the case may be) and any such deletion shall not affect the enforceability of the remainder of this Agreement (or the other Transaction Documents) not so deleted provided the fundamental terms of this Agreement (or the other Transaction Documents) are not altered.

19.8 Entire Agreement

This Agreement and the other Transaction Documents constitute the whole agreement between the



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Parties relating to the subject matter hereof and thereof and supercede any prior arrangements whether oral or written, including but not limited to the term sheet executed on April 17, 2018 between the Purchaser and Seller I (on behalf of all the Sellers) and addendum to term sheet executed on May 22, 2018 between the Purchaser and Seller I (on behalf of all the Sellers), in relation to the subject matter. No agreement or understanding varying or extending the same shall be binding upon any Party unless arising out of the specific provisions of this Agreement the other Transaction Documents. No Party has relied upon any representation or warranty in entering this Agreement the other Transaction Documents other than those expressly contained herein.

19.9 Further Actions

The Parties shall do or cause to be done such further acts, deeds, matters and things and execute such further documents and papers as may reasonably be required to give effect to the terms of this Agreement the other Transaction Documents.

19.10 Specific Performance

This Agreement the other Transaction Documents shall be specifically enforceable at the instance of any Party. The Parties agree that a non-defaulting Party will suffer immediate, material, immeasurable, continuing and irreparable damage and harm in the event of any material breach of this Agreement the other Transaction Documents and the remedies at Applicable Law in respect of such breach will be inadequate and each Party shall be entitled to seek specific performance against the defaulting Party for performance of its obligations under this Agreement the other Transaction Documents in addition to any and all other legal or equitable remedies available to it. Termination of this Agreement shall be without prejudice to all rights and remedies under Applicable Law or equity available to the non-defaulting Party including the right to seek indemnity for the breach from the defaulting Party.

19.11 Change in Law

Subject to Clause 6.1.8, in the event of a change in Applicable Law post the Execution Date and prior to the Closing Date, which directly and adversely affects the performance of this Agreement the other Transaction Documents by any Party hereto in a material way, the Parties agree to review this Agreement, and if deemed necessary, amend and renegotiate this Agreement in good faith, so as to reflect the commercial understanding between the Parties.

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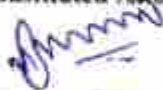
IN WITNESS WHEREOF, the Parties hereto have set and subscribed their respective hands on the day and the year first hereinbefore written.



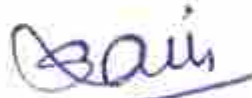
SIGNED and DELIVERED for and on behalf of
Waaree Energies Limited
By: Mr. Hitesh Mehta
Title: Director



SIGNED and DELIVERED for and on behalf of
Mr. Hitesh C. Doshi
By: Mr. Hitesh Mehta
Title: Constituted Attorney



SIGNED and DELIVERED for and on behalf of
Mr. Viren C. Doshi
By: Mr. Hitesh Mehta
Title: Constituted Attorney



SIGNED and DELIVERED for and on behalf of
Hero Solar Energy Private Limited
By: Mr. Sunil Jain
Title: Director



SIGNED and DELIVERED for and on behalf of
Waaree Solar Private Limited
By: Mr. Hitesh Mehta
Title: Authorized Signatory

SCHEDULE 1

Details of Other Sellers

Name	Address	PAN Number / Corporate Identification Number
Hitesh C. Doshi	94, 9th Floor, Mahagiri CHS, Ashok Chakravarty Road, Kandivali East, Mumbai-400101	AABPD0625P
Viren C. Doshi	94, 9th Floor, Mahagiri CHS, Ashok Chakravarty Road, Kandivali East, Mumbai-400101	AABPD0626Q

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SCHEDULE II

Part A – Shareholding Pattern as on Execution Date and Immediately Prior to First Closing

Name of Shareholder	Number of Sale Shares Held	% of Issued and Paid Up Share Capital
Waaree Energies Limited	20,49,90,000	99.995%
Hitesh C. Doshi	5,000	0.002%
Viren C. Doshi	5,000	0.002%
Total	20,50,00,000	100%

Part B – Shareholding Pattern Immediately Prior to First Closing representing First Closing Sale Shares

Name of Shareholder	Number of Sale Shares Held	% of Issued and Paid Up Share Capital
Waaree Energies Limited	10,04,40,000	49.995%
Hitesh C. Doshi	5,000	0.002%
Viren C. Doshi	5,000	0.002%
Total	10,04,50,000	100%

Part C – Shareholding Pattern as on the First Closing Date Post the First Closing

Name of Shareholder	Number of Sale Shares Held	% of Issued and Paid Up Share Capital
Hero Solar Private Limited	10,04,50,000	49.00%
Waaree Energies Limited	10,45,50,000	51.00%
Total	20,50,00,000	100%

Part D – Shareholding Pattern Immediately Prior to Second Closing representing Seller I Second Closing Sale Shares

Name of Shareholder	Number of Sale Shares Held	% of Issued and Paid Up Share Capital
Waaree Energies Limited	10,45,50,000	51.00%
Total	20,50,00,000	100%

(Handwritten signatures)



Part E – Shareholding Pattern as on the Second Closing Date Post the Second Closing

Name of Shareholder	Number of Sale Shares Held	% of Issued and Paid Up Share Capital
Hero Solar Private Limited	20,49,99,999	100.00%
Nominee of Hero Solar Private Limited	1	0.00%
Total	20,50,00,000	100%

[Handwritten signatures]

