

## World Bank Group (WBG): Template Documentation

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<b>Title:</b>	POWER PURCHASE AGREEMENT (CO-LOCATED SOLAR PV + BESS)
<b>Law:</b>	ENGLISH
<b>Date</b>	APRIL 2023

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### NOTES:

1. **General Comments:** This template Power Purchase Agreement (co-located Solar + BESS) (Power Purchase Agreement, PPA) has been prepared by the WBG team assuming that, in particular:
  - (i) the project is a single-site, grid-connected solar photovoltaic power plant and battery energy storage system (BESS) likely awarded via a competitive tender;
  - (ii) the project use case is (A) to provide a certain number of hours of renewable energy storage (for example, between 1-4) on a fully dispatchable basis with a capacity-based tariff, so as to provide the maximum dispatch flexibility to the offtaker and maximise the value add of the BESS to allow use in peaking power periods and (B) to sell power generated from the PV Plant to the purchaser;
  - (iii) the Power Purchase Agreement follows recent international standard templates developed for single-site grid connected solar photovoltaic power plant except to the extent required to give effect to the use case described in paragraph (ii) and is intended for use together with the form of Government Support Agreement deployed in other WBG transactions;
  - (iv) the host country is not a country with an established IPP track record;
  - (v) there is no legal or practical alternative to selling to the Government utility;
  - (vi) the Government is advised by qualified transaction advisor up to document execution;
  - (vii) the Government will tender the project to international developers specifying a pre-determined site provided or procured by the Government;
  - (viii) the project company will fund and build the interconnection facilities and then hand over the interconnection facilities to the Purchaser on or before the commencement of commercial operations;
  - (ix) the project will be limited recourse project financed, possibly by the WBG or other development finance institutions;
  - (x) the project documentation (including this Power Purchase Agreement) will be competitively tendered to developers. It seeks to capture a balanced risk allocation and not an opening negotiating position: it is not intended as a first draft in a negotiated process;
  - (xi) although written as English law, in some countries local law will be adopted as the governing law, though this will add time and expense to the preparation process;

(xii) and as well as other matters.

Where these assumptions do not apply, the drafts should be reconsidered before use.

2. **Warning:** This document is intended as an advanced template or working draft which will require adaptation having regard to the circumstances in which it is to be used. In particular, project specific information will be required for Schedule 2 (*Project specific information*), Schedule 3 (*Complex – Minimum functional specifications and standards*), Schedule 4 (*Purchaser Interconnection Facilities*), Schedule 7 (*Technical Limits*) and Schedule 10 (*Form of PIF Transfer Agreement*) and Schedule 12 (*Insurances*). This document reflects the views of those drafting it on the law and practice at the time at which it was produced (noted above).
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construed as a commitment nor an offer from the entities of the World Bank Group to provide financing to the underlying project.

Dated \_\_\_\_\_

THE ENTITY SPECIFIED IN SCHEDULE 1 OF THIS AGREEMENT

as Seller

and

[NAME OF PURCHASER]

as Purchaser

## POWER PURCHASE AGREEMENT

RELATING TO THE [CAPACITY OF PROJECT] MW [DESCRIPTION OF PROJECT]  
SOLAR POWER AND CO-LOCATED [X] MW BATTERY STORAGE PROJECT IN  
[COUNTRY]

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THIS **POWER PURCHASE AGREEMENT** (this "**Agreement**") is made on \_\_\_\_\_ between:

- (1) The entity specified in Section A (*Seller Details*) of Part I (*General*) of Schedule 1 (*Seller specific information*) ("**Seller**"); and
- (2) [**NAME OF PURCHASER**], a [*type of company*] established in [*country*] whose [*registered office/principal place of business*] is at [*address*] [*and whose registered number is [number]*] ("**Purchaser**"),

(each a "**Party**" and together the "**Parties**").

**Background:**

- (A) The Government has conducted a competitive tender for the Project, which has been awarded to the Seller pursuant to [*specify law*].
- (B) Pursuant to terms of the tender, the Seller is entering into the Government Support Agreement with the Government and this Agreement with the Purchaser, as well as the Related Agreements.
- (C) The Seller intends to sell and deliver to the Purchaser, and the Purchaser intends to purchase from the Seller all of the Available Storage Capacity of the BESS on the terms and conditions set out in this Agreement.
- (D) Electrical energy generated from the PV Plant shall be used to charge the BESS on the terms and conditions set out in this Agreement.
- (E) The Seller intends to sell and deliver to the Purchaser, and the Purchaser intends to purchase and accept from the Seller all of the electrical energy generated by the PV Plant on the terms and conditions set out in this Agreement

**It is agreed** as follows:

**1 Definitions and interpretation**

**1.1 Definitions**

In this Agreement, the following terms have the meanings given below:

**"Abandonment"** means:

- (i) the voluntary cessation of the design, procurement, construction, installation, operation or maintenance of the Complex or, prior to the Commercial Operations Date, the Purchaser Interconnection Facilities by or on behalf of the Seller (provided that the completion of any such activity shall not constitute a cessation of that activity); or
  - (ii) the permanent withdrawal of all, or substantially all, personnel of the Seller from the Site,
- in each case occurring other than as a result of a Force Majeure Event or a [*Country*] Risk Event.

**"Acceptable Bank"**<sup>1</sup> means a bank or financial institution having international ratings for its long-term unsecured unsubordinated debt obligations from at least two of Standard & Poor's Ratings Services, Fitch Ratings Limited and Moody's Investors Service, Inc., such ratings being no less than "A-" (Standard & Poor's Ratings Services or Fitch Ratings Limited) or "A3" (Moody's Investors Service, Inc.) or as otherwise agreed by the Parties from time to time.

**"Access Indemnity Maximum Amount"** means the amount specified in Section A (*General*) of Schedule 2 (*Project specific information*).

**"Affiliate"** means, with respect to any person, any other person that, directly or indirectly, through one or more intermediaries, Controls, or is Controlled by or is under common Control with that person.

**"Anchor Sponsor"** means the entity or entities specified in Section B (*Seller Information*) of Part I (*General*) of Schedule 1 (*Seller specific information*).

**"Available"** means when the Net Dependable Capacity of the BESS can be made available for dispatch at the Delivery Point at the BESS irrespective of whether or not the Purchaser issues a Purchaser Dispatch Instruction in respect of such Net Dependable Capacity or whether the Purchaser is able to take delivery of BESS Net Electrical Output at such Delivery Point.

**"Available Storage Capacity"** means, in respect of each Dispatch Hour, the Net Dependable Capacity<sup>2</sup> of the BESS *provided, however*, if the BESS is dispatched in accordance with the terms of this Agreement for a Dispatch Hour (or part thereof) and is not able to deliver at Delivery Point BESS Net Electrical Output for such Dispatch Hour (or part thereof) that has been dispatched in accordance with the relevant Purchaser Dispatch Instruction (other than during the occurrence of a Permitted Scheduled Outage or a Permitted Unscheduled Outage and provided such Purchaser Dispatch Instruction is for an amount which is less or equal to the Net Dependable Capacity), then the Available Storage Capacity for such Dispatch Hour (or part thereof) shall be adjusted accordingly based on the actual amount of BESS Net Electrical Output for such Dispatch Hour (or part thereof).

**"Back-Up Meter"** means the back-up energy meter (and all associated equipment), installed by the Seller at the PV Plant in relation to the production of PV Plant Net Electrical Output and at the BESS in relation to BESS Net Electrical Output and Charging Energy (Grid)) as part of the Purchaser Interconnection Facilities adjacent to the Main Meter but on the Purchaser's side of the relevant Delivery Point and to be used as part of the Metering System to measure and record energy data for back-up and comparison purposes.

**"Battery Maintenance Contractor"** means an entity from the list of possible battery maintenance contractors set out in Part III (*Key Components and Contractors*) of Schedule 1 (*Seller specific information*) to be notified to the Purchaser before the Effective Date (where such functions are not being carried out by the Seller or its affiliates).

**"BESS"** means Seller's battery energy storage system (including the operational requirements of the battery energy storage system) located at the Site and including mechanical equipment and associated facilities and equipment required to deliver Available Storage Capacity, as more particularly described in Schedule 3 (*Complex – Minimum functional specifications and standards*).

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<sup>1</sup> **Note:** Please discuss the Acceptable Bank requirement with each client to ensure that they can fulfill their obligations to secure an unsecured letter of credit in the event that the Seller chooses that option (i.e. Seller does not opt to require the Purchaser to procure Qualifying Credit Enhancement in Section D of Schedule 1, Part 1).

<sup>2</sup> **Note:** Availability of the BESS is assumed against the Net Dependable Capacity, as the Net Dependable Capacity is the best measure of actual availability.

"**BESS Achieved Capacity**" means the actual maximum storage capacity of the BESS expressed in MW<sub>AC</sub>, and MWh as determined from time to time in accordance with paragraph 8 (*Calculation of the PV Plant Achieved Capacity*) of Schedule 6 (*Commissioning of Complex and Testing*).

"**BESS Contracted Capacity**" means the value: (i) in MW<sub>AC</sub>, of alternating current capacity and (ii) MWh, as specified in Section A (*General*) of Schedule 2 (*Project specific information*), being the contracted storage capacity of the BESS as may be amended in accordance with Clause 5.4 (*Commercial Operations Date*).

"**BESS Metered Energy**" means, in any period, the BESS Net Electrical Output (expressed in kWh) that is recorded by the Main Meter (or, where required under Schedule 5 (*Metering requirements*), the Back-Up Meter) in that period.

"**BESS Minimum Storage Capacity**" means the proportion of the BESS Contracted Capacity in (i) in MW<sub>AC</sub>, of alternating current capacity and (ii) MWh, which must be Commissioned by the Longstop Commercial Operations Date, as specified in Section A (*General*) of Schedule 2 (*Project specific information*).

"**BESS Net Electrical Output**" means the electrical energy discharged by the BESS, expressed in kWh, that is delivered by the Seller to the Purchaser at the Delivery Point at the BESS in accordance with the terms of this Agreement.

"**BESS Operating Limits**" means the operating limits specified in Section B (*BESS*) of Schedule 7 (*Technical Limits*).

"**BESS Performance Tests**" means the Storage Capacity Test and Roundtrip Efficiency Test.

"**BESS Term**" means the period from the Effective Date until the date of expiry of a period of [15] years from the Scheduled Commercial Operations Date, unless extended in accordance with Clause 3.2 (*Extension of Term*).

"**BESS Term Expiry Date**" means the date of expiry of the BESS Term.

"**Bid Bond**" means the performance security procured by the Seller for the benefit of the Purchaser as part of the tender requirements in an amount equal to the Project Development Cost Amount.

"**Borrower Account**" has the meaning given in Clause 13.2.1 (*Provisions relating to any Escrow Account*).

"**Business Day**" means a day, other than a Saturday or a Sunday or an official public holiday in [X].

"**Buy Rate**" means, in respect of any payment, the number of [local currency] required to buy one US Dollar on the relevant date of payment as notified by the Central Bank at 17:00 on the day before such payment is made.

"**Cable Route**" means the designated route for the interconnection cables connecting the Complex to the Grid System including, prior to transfer of the Purchaser Interconnection Facilities in accordance with Clause 5.1 (*Construction of the Complex and Purchaser Interconnection Facilities*), any part of this designated route on the Purchaser's side of each Delivery Point.

"**Capacity Charge**" has the meaning given in Part II (*Tariff Information*) of Schedule 1 (*Seller specific information*), as the same may be adjusted in accordance with Clause 15.3.3 (*Increased Costs*) or Clause 16.1 (*Decreased Costs*).

"**Central Bank**" has the meaning given in Section A (*General*) of Schedule 2 (*Project specific information*).

"**Change in Law**" means the occurrence of any of the following after the CIL/Diligence End Date:

- (i) the enactment of any new Laws of [country];
- (ii) the repeal, modification or re-enactment of any existing Laws of [country];
- (iii) a change in the interpretation or application of any Laws of [country];
- (iv) the termination, repeal or cessation of the effect of, or modification of, any existing Industry Documents;
- (v) the commencement or entry into effect of any Laws of [country] or Industry Documents which were not formally adopted as at the CIL/Diligence End Date;
- (vi) a change in the interpretation or application of any Laws of [country] or of any Industry Document;
- (vii) a regulatory decision, instruction or course of action which prevents or contradicts the operation, performance or effectiveness of this Agreement in accordance with its terms;
- (viii) the imposition of a requirement for a Consent, where such requirement did not exist and could not have been anticipated by the Seller (acting reasonably) as at the CIL/Diligence End Date;
- (ix) the grant of any Consent on terms and conditions which:
  - (a) are contrary to, or inconsistent with, the Laws of [country] or the Industry Documents; or
  - (b) are unreasonably onerous or restrictive, or which will involve the incurrence of unreasonable costs;
- (x) after the date of grant of a Consent, a change in the terms and conditions attaching to such Consent or the attachment of new terms and conditions to such Consent, other than as provided for by such Consent on the date of the grant thereof;
- (xi) a Consent not being granted on a timely basis, and within the time period required under the Laws of [country], following an application therefor having been properly made by the Seller within the time required by the Laws of [country]; or
- (xii) any Consent ceasing to remain in full force and effect, or, if granted for a limited period, not being renewed within the time required by the Laws of [country], or where no time is so specified, within a reasonable time, following an application therefor having been properly made, or being renewed on terms and subject to conditions which are less favourable to the Seller, its investors, any Lenders or the Seller's contractors than those attached to the original Consent;

and includes any of the above which result from the acts of any regulator having jurisdiction over the Seller or the Project, whether or not independent from Government, provided, however, that a Change in Law does not include any of the above that are required for the promulgation by the Government or any Governmental Authority of human rights, employment of labour or health, safety and environmental and social standards in a manner which:

- (i) is reasonably required by international labour and/or human rights treaties to which the Government is party from time to time; or
- (ii) is no more stringent than equivalent standards or requirements set out in the WB Performance Standards which are applicable to the Project.

**"Charging Energy (Grid)"** means all electrical energy from the Grid System that is delivered to the Delivery Point at the BESS in accordance with Clause 8.6 (*Charging Management*) from Purchaser pursuant to this Agreement for purposes of charging the BESS.

**"CIL/Diligence End Date"** means *[insert the date which was seven days before the deadline for submitting proposals under the RFP]*.

**"Commercial Operations Date"** or **"COD"** means 00:00 on the day following the date on which:

- (i) the Independent Engineer certifies that the PV Plant Performance Test has been completed successfully and that the value for "PV Plant Achieved Capacity" as calculated by the Seller pursuant to paragraph 10 (*Independent Engineer and Commercial Operations Date*) of Schedule 6 (*Commissioning of Complex and Testing*) is correct;
- (ii) the value for the "PV Plant Achieved Capacity" is equal to or greater than the PV Plant Contracted Capacity or, on the Longstop Commercial Operations Date, is equal to or greater than the PV Plant Minimum Acceptance Capacity;
- (iii) the Independent Engineer certifies that the Storage Capacity Test has been completed successfully and that the value for BESS Achieved Capacity as calculated by the Seller pursuant to Schedule 6 (*Commissioning of Complex and Testing*) is correct;
- (iv) the value for the BESS Achieved Capacity is equal to or greater than the BESS Contracted Capacity or, on the Longstop Commercial Operations Date, is equal to or greater than the BESS Minimum Storage Capacity;
- (v) the Independent Engineer certifies that the Roundtrip Efficiency Test has been completed successfully and that the value for "RTE Ratio" as calculated by the Seller pursuant to Schedule 6 (*Commissioning of Complex and Testing*) is correct;
- (vi) the value for the RTE Ratio is equal to or greater than the RTE Performance Metric or, on the Longstop Commercial Operations Date, is equal to or greater than the RTE Minimum Performance Metric.

**"Commissioned"** means:

- (i) in respect of the Purchaser Interconnection Facilities, that the Purchaser Interconnection Facilities have passed the PPA Commissioning Tests in accordance with the requirements of Schedule 4 (*Purchaser Interconnection Facilities*);

- (ii) in respect of the Complex, that the whole Complex has passed the PPA Commissioning Tests in accordance with the requirements of Schedule 6 (*Commissioning of Complex and Testing*), including any whole Complex tests specified in paragraph 1 thereof.

"**Commissioning**" means, in respect of the Purchaser Interconnection Facilities, the performance of the PPA Commissioning Tests in accordance with the requirements of Schedule 4 (*Purchaser Interconnection Facilities*) and, in respect of all the Complex, the performance of the PPA Commissioning Tests in accordance with the relevant requirements of Schedule 6 (*Commissioning of Complex and Testing*) and "**Commission**" shall be construed accordingly.

"**Complex**" means (i) the solar photovoltaic electric power generation plant that is located at the Site, together with all balance of plant and all other equipment up to each Delivery Point, whether or not located on the Site, as more particularly described in Schedule 3 (*Complex – Minimum functional specifications and standards*); and (ii) the BESS.

"**Conditions Precedent**" means the conditions precedent specified in Section C (*Conditions Precedent*) of Schedule 2 (*Project specific information*) and "**Condition Precedent**" means any one of them.

"**Confidential Information**" has the meaning given in Clause 18.1 (*Restriction*).

"**Consent**" means an approval, consent, authorisation, notification, concession, acknowledgement, agreement, licence, permit, decision, right or similar item required to be obtained from any Governmental Authority for the purposes of the Project.

"**Construction Contract**" means the principal construction contract to be entered into between the Seller and a Construction Contractor in connection with the construction of the Complex (where such functions are not being carried out by the Seller or its Affiliates).<sup>3</sup>

"**Construction Contractor**" means an entity from the list of possible construction contractors set out in Part III (*Key Components and Contractors*) of Schedule 1 (*Seller specific information*) to be notified to the Purchaser before the Effective Date (where such functions are not being carried out by the Seller or its Affiliates).

"**Contract Year**" means the period starting at 00:00:01 on 1 January in any calendar year and ending at 24:00:00 on 31 December in that calendar year, provided that:

- (i) the first Contract Year shall be for a period starting at 00:00:01 on the Commercial Operations Date and ending at 24:00:00 on 31 December in that calendar year; and
- (ii) the last Contract Year shall be for a period starting at 00:00:01 on 1 January in that calendar year and ending at 24:00:00 on the date that this Agreement terminates or expires.

"**Control**" means the power, directly or indirectly, to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities or any interest carrying voting rights, or to appoint or remove or cause the appointment or removal of any directors (or equivalent officials) or those of its directors (or equivalent officials) holding the majority of the voting rights on its board of directors (or equivalent body), whether by contract or otherwise, and "**Controlled**" shall be construed accordingly.

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<sup>3</sup> **Note to Draft:** To be considered if the PV Plant and BESS could be constructed by different entities.

"**COVID-19**" means the disease designated COVID-19 and the related pandemic of the virus designated SARS-CoV-2 and any mutations thereof.

"**[Country] Risk Event**" means any one or more of the following that occurs in [country] or directly affects [country]:

- (i) subject to Clause 15.7 (*Provisions relating to blackmail, intimidation or vandalism*), an act or campaign of blackmail, intimidation or vandalism;
- (ii) an act of war (whether declared or undeclared), invasion, civil war, armed conflict or act of foreign enemy, blockade, embargo, the imposition or extension of Sanctions or revolution;
- (iii) a riot, insurrection, civil commotion, act or campaign of sabotage, terrorism or violence;
- (iv) a nuclear explosion, radioactive contamination or ionising radiation originating from a source in [country] or resulting from any event, circumstance or combination of events or circumstances in paragraphs (ii) and (iii) above;
- (v) an epidemic, pandemic or plague;
- (vi) a strike, work-to-rule or go-slow which does not solely or primarily affect the Seller; or
- (vii) unexploded ordnance, archaeology, contamination, pre-existing hazardous materials or Manmade Underground Obstruction, in each case that was unforeseeable (taking into account the Project Site Data).

"**[Currency]**" or "**[currency symbol]**" means the lawful currency of [country].

"**Curtailed Event**" means (i) the failure of the Government or any Government Related Party to complete any Government Infrastructure by the relevant Government Infrastructure Completion Date, or (ii) an Emergency or other constraint, unavailability, curtailment or failure of the Grid System, or physical conditions prevailing on the Grid System, in each case that prevents or restricts the Purchaser from accepting at the relevant Delivery Point electrical energy (whether as PV Plant Net Electrical Output produced from the PV Plant or as BESS Net Electrical Output produced from the BESS) that the PV Plant or BESS (as applicable) would otherwise have generated and delivered for any reason, or any amendment by the Purchaser of a standing dispatch instruction in Clause 6.3.3. Notwithstanding the foregoing, in circumstances where the relevant event prevents or restricts the Seller from delivering PV Plant Net Electrical Output produced from the PV Plant but does not restrict the ability to deliver BESS Net Electrical Output produced from the BESS at the Delivery Point at the BESS, such event shall not be a Curtailed Event with respect to the BESS.

"**Curtailed (Fault) Event**" means a Curtailed Event which is not a Curtailed (No Fault) Event.

"**Curtailed (No Fault) Event**" means the occurrence of a Curtailed Event for any reason (including any event or circumstance of the nature described in paragraph (i) of the definition of Force Majeure Event) which:

- (i) is beyond the reasonable control of the relevant Government Related Party; and
- (ii) could not have been prevented by the relevant Government Related Party by the exercise of reasonable care and skill and through acting in accordance with Prudent Utility Practice

taking into account the likelihood of such event, the effect of such event if it should occur, and the likely efficacy, cost and cost-effectiveness of protective measures,

provided that such event or circumstance (or combination thereof) shall only constitute a Curtailment (No Fault) Event (rather than a Curtailment (Fault) Event) for so long as the relevant Government Related Party is using all reasonable endeavours in accordance with Prudent Utility Practice to minimise the adverse effect thereof.

"**Decreased Cost**" means the amount of any savings (expressed as a monetary amount and without double counting) made by the Seller and directly attributable to a Change in Law which:

- (i) has increased the actual revenues or will increase the forecast revenues of the Project; or
- (ii) has resulted or will result in the Project having reduced capital expenditure and/or operating costs.

"**Deemed Generated Energy**" means the amount of PV Plant Net Electrical Output, in kWh, that the Seller would have generated and delivered at the Delivery Point at the PV Plant in accordance with the terms of this Agreement, but for the occurrence of a Relief Event which is a Purchaser Risk Event or No Fault Purchaser Risk Event, as determined in accordance with Schedule 9 (*Determination of payments*).

"**Decreased Costs Threshold**" means the amount specified in Section A (*General*) of Schedule 2 (*Project specific information*).

"**Deemed Storage Capacity**" means: (a) prior to the Commercial Operations Date, the BESS Contracted Capacity (in MW<sub>AC</sub>) for each Dispatch Hour; and (b) following the Commercial Operations Date, the then applicable Net Dependable Capacity (in MW<sub>AC</sub>) for each Dispatch Hour.

"**Delivery Point**" means the physical point or points at which electrical energy is transferred to or from the Purchaser, whether as PV Plant Net Electrical Output from the PV Plant, BESS Net Electrical Output from or Charging Energy (Grid) to the BESS), as identified in Schedule 4 (*Purchaser Interconnection Facilities*).

"**Development Rights**" has the meaning given in the Government Support Agreement.

"**Diligence Event**" means (i) any requirement to obtain a Consent, or (ii) any rights, powers, conditions, duties or obligations being applicable, in each case, which are typically required for the purposes set out in clause 4.2.1 (*Support with the legal regime*) of the Government Support Agreement and which are not included within schedule 4 (*Consents and Principal Rights and Impediments*) of the Government Support Agreement, where the obligation on the Seller to obtain such Consent existed or such rights, powers, conditions, duties or obligations applied as at the CIL/Diligence End Date, provided, however, that the Seller shall only be entitled to relief under this Agreement or the GSA in relation to a Diligence Event where the Seller has made timely and reasonable efforts in accordance with Prudent Industry Practice and the applicable Laws of [country] to: (A) where a Diligence Event relates to a Consent, right or power, to secure such Consent, right or power; and (B) where a Diligence Event relates to a condition, duty or obligation, to secure a waiver of such condition, duty or obligation.

"**Direct Agreement**" has the meaning given in the Government Support Agreement.

"**Dispatch Hour**" means an hour falling within a Dispatch Period.

"**Dispatch Period**" means the hours of [x] until [x] each day.]

"**Dispute**" has the meaning given in Clause 21.1.1.

"**Dispute Notice**" has the meaning given in Clause 21.2.1.

"**Due Date**" means, with respect to an invoice submitted by a Party pursuant to Clause 12.3 (*Invoicing, billing and payment*), the date that is 30 days after the date that the invoice was received by the other Party.

"**E&S Law**" means any Law of [country] relating to the environment, labour, health and safety (meaning all applicable statutes, laws, ordinances, rules and regulations of [country / state name]), including, without limitation, all authorization setting standards concerning environmental, social, labour, health and safety or security risks.]

"**Effective Date**" means the first date on which all the Conditions Precedent are either satisfied or waived in accordance with Clause 2.3 (*Fulfilment of Conditions Precedent*).

"**EHS Guidelines**" means the World Bank Group Environmental, Health and Safety (i) General Guidelines (2007) and (ii) Guidelines for Electric Power Transmission and Distribution (2007), as may be modified, amended and updated from time to time, available at <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/157871484635724258/environmental-health-and-safety-general-guidelines>.]

"**Emergency**" means any event or circumstance affecting the Grid System which:

- (i) is described as an emergency in any Industry Document;
- (ii) materially or adversely affects or may affect (as determined solely by the Purchaser) the ability of the Purchaser to maintain a safe, adequate and continuous electrical service to its customers, having regard to the then-current standards of electrical service provided to its customers;
- (iii) presents a physical threat to persons or property or the security, integrity or reliability of the Grid System; or
- (iv) the Purchaser reasonably expects to have the effects specified in paragraph (ii) or (iii) above.

"**End-of-Term Bond**" has the meaning given in Clause 10.3.2.

"**Energy Charge**" has the meaning given in Part II (*Tariff Information*) of Schedule 1 (*Seller specific information*), as the same may be adjusted in accordance with Clause 15.3.3 (*Increased Costs*) or Clause 16.1 (*Decreased Costs*).

"**Equivalent Cycle**" means the amount of BESS Net Electrical Output measured at the Delivery Point at the BESS in relation to the BESS that equals the then-applicable the BESS Achieved Capacity (in each case in kWh or MWh).

"**Escrow Account**" means, where applicable, an offshore USD bank account established with the Escrow Agent, as may be specified in Section A (*General*) of Schedule 2 (*Project specific information*).

"**Escrow Agent**" means, where applicable, an Acceptable Bank willing to open and maintain the Escrow Account in accordance with the terms of this Agreement, as may be specified in Section A (*General*) of Schedule 2 (*Project specific information*).

"**Escrow Letter**" means, where applicable, any letter agreement to be entered into between the Purchaser, the Seller and the Escrow Agent substantially in the form set out in Schedule 11 (*Form of Escrow Letter*), as may be adjusted to reflect the legal requirements of the jurisdiction of the Escrow Agent.

"**ESIA**" means the Environmental and Social Impact Assessment required to be conducted by the [**Purchaser**]/[**Seller**] as a Condition Precedent in accordance with Clause 2.6 (*Environmental and Social Conditions to Effectiveness*).<sup>4</sup>

"**ESMS**" means the Environmental and Social Management System to be developed and maintained by the Seller in accordance with Clause 10.7 (*Environmental and Social Management System*).]

"**Estimated PV Plant Performance Ratio**" means the estimated PV Plant Performance Ratio, specified in Section C (*Estimated PV Plant Performance Ratio*) of Part I (*General*) of Schedule 1 (*Seller specific information*), as adjusted from time to time by the degradation factor specified therein.

"**Event of Default**" means a Seller Event of Default or a Purchaser Event of Default.

"**Expert**" means an independent person with appropriate qualifications and experience:

- (i) agreed upon between the Parties to a Dispute; or
- (ii) nominated by the International Centre for Expertise of the International Chamber of Commerce, in accordance with the provisions for appointment of experts under the Rules for Expertise of the International Chamber of Commerce, following a reference from either Party in the absence of an agreement as contemplated in paragraph (i) above within 14 days of the initiation of the reference of a Dispute to an Expert for determination in accordance with Clause 21.3 (*Expert determination*) or, as applicable, the Parties being notified that an identified Expert is unable or unwilling to undertake or complete the reference to Expert determination.

"**Financing Agreements**" means any loan agreements, participation agreements, notes, indentures, security agreements, guarantees, swaps and insurance products and other documents relating to any third party financing of the Project, or any part thereof but excludes any such documents entered into with the Seller's immediate shareholders, the Anchor Sponsors and, in each case, any of their Affiliates.<sup>5</sup>

"**Force Majeure Event**" means:

- (i) an earthquake, lightning, fire, explosion, subsidence, heave, landslip, collapse, hurricane, storm, flood, drought, strong winds, extreme weather or environmental conditions (except where the only effect of such extreme weather or environmental

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<sup>4</sup> Please consult with WBG's E&S specialist as to whether the Purchaser or the Seller shall be responsible for the ESIA, as this may differ on a project by project basis.

<sup>5</sup> **Note:** This template PPA assumes that the Project will be debt financed, at least in part. If the possibility of an all-equity funded Project arises, the team should liaise with the relevant person at WBG to confirm whether the payment guarantee on the liquidity mechanism will be available in such case. The team should ask transaction counsel to identify changes needing to be made to this template PPA as a result of such financing structure.

conditions is a reduction in solar irradiation), meteorite, loss or damage in the course of marine, rail, road or air transit, collision, volcanic eruption or ash cloud, explosion;

- (ii) any event, circumstance or combination of events or circumstances that would be a Change in Law or [country] Risk Event (other than the imposition or extension of Sanctions), but for the fact that the legal requirement, consent, event or circumstances arise under the laws of another country, it occurs outside [country] or does not directly involve [country];
- (iii) any other event, circumstance or combination of events or circumstances that satisfy the conditions in Clause 14.2 (*Requirements for Seller to claim relief*);

other than a Diligence Event, a Purchaser Risk Event or a No Fault Purchaser Risk Event.

**"Functional Test"** means the tests described in paragraph 5 (*Functional Tests*) of Schedule 6 (*Commissioning of Complex and Testing*).

**"Government"** means the government of [country] [(whose contact details, in the event of any notices needing to be copied to the Government, are set out in Schedule [●] ([●]))]<sup>6</sup>.

**"Government Default"** means a breach by the Government of any provision of the Government Support Agreement or the occurrence of any other event or circumstance which, with the passage of time or the giving of notice, would constitute a Government Event of Default<sup>7</sup>.

**"Government Event of Default"** has the meaning given in the Government Support Agreement.

**"Government Infrastructure"** has the meaning given in the Government Support Agreement.

**"Government Infrastructure Completion Date"** has the meaning given in the Government Support Agreement.

**"Government Related Party"** means any Governmental Authority or any person directly or indirectly owned or controlled by any Governmental Authority or employed or engaged by them for any purpose relevant to the Related Agreements.

**"Government Support Agreement"** or **"GSA"** means the government support agreement entered into between the Seller and the Government on or around the date of this Agreement in relation to the Project.

**"Governmental Authority"** means the department, authority, instrumentality, court, tribunal, agency or other person, including any regulator, from which a Consent is to be obtained from time to time or which has jurisdiction under the Laws of [country] over the Purchaser or the Seller or their activities, including the Project or the performance or interpretation of this Agreement.

**"Grid Code"** means the grid code of [country] specified in Section A (*General*) of Schedule 2 (*Project specific information*) in effect as at the CIL/Diligence End Date, as the same may be amended from time to time.<sup>8</sup>

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<sup>6</sup> **Note:** Delete if not required.

<sup>7</sup> In cases where acts or omissions by government entities (but not the Government itself) pose a disproportionate and legitimate concern to the Seller or its lenders, it may help to expand this definition to include "the inability of the Seller to realize the full and continuing Benefit of the Development Rights."

<sup>8</sup> **Note:** If a Grid Code does not exist, or is not available at the time of RFP, this term needs to be removed and requirements for compliance with such code throughout this agreement need to be adjusted.

"**Grid System**" means the transmission and distribution facilities through which the PV Plant Net Electrical Output and BESS Net Electrical Output will be received and transmitted by the Purchaser to consumers of electrical energy, including, following transfer in accordance with Clause 5.1 (*Construction of the Complex and Purchaser Interconnection Facilities*), the Purchaser Interconnection Facilities.

"**Guaranteed Letter of Credit**" means any letter of credit supported by a Qualifying Credit Enhancement, callable in accordance with the terms set out therein and in the documentation relating to the Qualifying Credit Enhancement, and in a form acceptable to the Seller, acting reasonably, issued in favour of the Seller by an Acceptable Bank and valid for a term at least as long as the maximum term of the Qualifying Credit Enhancement.<sup>9</sup>

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"**Increased Costs**" means, in relation to a Purchaser Risk Event or No Fault Purchaser Risk Event [*or inaccurate Specified Fiscal Assumption*], the sum of any liabilities, costs, charges, claims, expenses or losses (without double counting) reasonably incurred by the Seller which would not have been payable had such Purchaser Risk Event or No Fault Purchaser Risk Event [*or inaccurate Specified Fiscal Assumption*] not occurred, including (to the extent they meet the aforementioned criteria):

- (i) increased liabilities, costs or expenses that the Seller incurs or accrues due to any delay in the Commercial Operations Date;
- (ii) increased operation and maintenance costs, liabilities or expenses of the Seller;
- (iii) any loss or liability arising from damage to, destruction of or a requirement to modify the Complex (or, before the Commercial Operations Date, the Purchaser Interconnection Facilities) or the costs and expenses of restoration, repair or modification;
- (iv) all amounts paid (or accruing to be paid) by the Seller in or towards discharge, settlement or compromise of any obligation or liability of, or claim made or threatened against, the Seller (including under any Project Document or Financing Agreement) or any Tax liability;
- (v) experts' and professional advisers' fees and expenses which are incurred by or are to be paid by the Seller;
- (vi) any increase in an insurance premium in respect of any insurance policy to be obtained and maintained by the Seller under the Agreement;
- (vii) any foreign exchange losses; and
- (viii) any interest, expenses or carrying charges incurred by the Seller in connection with any of the amounts in paragraphs (i) to (vii) above.

"**Increased Costs Threshold**" means the amount specified in Section A (*General*) of Schedule 2 (*Project specific information*).

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<sup>9</sup> **Note:** Duration to be confirmed at country level based on LC availability. IBRD payment guarantees, and IDA payment guarantees on non-concessional terms, are presently subject to a 20-year maturity limit, and IDA payment guarantees on concessional terms are presently subject to maturity limits ranging from 30 to 40 years, depending on the member country. These maturity limits are subject to change and may be revised from time to time. Furthermore, the PPA is drafted assuming that the term of any Guaranteed LC will not be less than the term of the Qualifying Credit Enhancement.

"**Independent Engineer**" means the independent consulting company or consortium of companies of international repute with relevant experience in photovoltaic electric power generation, as well as in environmental and social issues related to developing and operating such projects, [including application of the WB Performance Standards (or equivalent standards),]<sup>10</sup> engaged to act for the Purchaser and the Seller in connection with this Agreement and appointed jointly by the Seller and the Purchaser in accordance with Clause 4 (*Appointment of Independent Engineer*).

"**Independent Engineer Agreement**" means the agreement to be entered into between the Purchaser, the Seller and the Independent Engineer in accordance with Clause 4 (*Appointment of Independent Engineer*) appointing the Independent Engineer to perform such services as further set forth therein, substantially in the form set out in Schedule 13 (*Form of Independent Engineer Agreement*).

"**Industry Documents**" means:

- (i) the Grid Code;
- (ii) the currently applicable industry documents specified in Section A (*General*) of Schedule 2 (*Project specific information*); or
- (iii) any other multi-party codes, grid connection or operating procedures, policies, guidelines, standards or regulations which generally apply to entities operating in the power sector in [country],

as any of them may be amended from time to time.

"**Insurance Proceeds**" means any amount received by the Seller in respect of insurance policies taken out by it in connection with the Project and any amount (each such amount being deemed to have been received by the Seller) for which:

- (i) insurers have accepted liability under and committed to make a payment in respect of any insurance policies taken out by the Seller in connection with the Project; or
- (ii) the Purchaser can demonstrate (on the balance of probabilities) that the insurers would have accepted liability had the Seller taken out and maintained insurances in compliance with its obligations under Clause 10.4 (*Insurance undertakings*),

in each case less any deductible.

"**Interest Rate**" means the interest rate specified in Section A (*General*) of Schedule 2 (*Project specific information*).

"**Land Agreement(s)**" means an agreement or agreements between the Seller and [name of transferor/landlord] dated on or around the date of this Agreement granting the Seller rights to own or to use, occupy and access, or transferring to the Seller (as the case may be), any part of the Site and the Cable Route to each Delivery Point.

"**Laws of [country]**" means any international (to the extent having direct effect in [country]), federal, national, provincial or local law, order, rule, regulation, bye-law, statutory order, statutory reversionary order, executive order, decree, policy, judicial decision, notification, administrative

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<sup>10</sup> The design team has decided that where possible, the "Independent Engineer" should perform both technical and E&S functions. If, on a case by case basis, two separate companies/consortia are used, then the use of the term needs to be checked throughout the agreement, as it may be more appropriate, in some provisions, to refer to an "E&S Consultant".

decision or other similar directive made pursuant thereto, or legally binding instruction, guideline, code or standard issued by an executive, legislative, judicial or administrative entity applicable in [country] (including any Governmental Authority), including in relation to any Tax, as any of them may be amended from time to time, other than Industry Documents.

"**LC Issuing Bank**" means the issuer of a Letter of Credit or a Guaranteed Letter of Credit.

"**Lead Sponsor**" means the entity specified in Section B (*Seller Information*) of Part I (*General*) of Schedule 1 (*Seller specific information*).

"**Legal Opinion**" has the meaning given in the Government Support Agreement.

"**Lenders**" means any banks or other financial institutions party to any Financing Agreements in any capacity or any entity appointed to act as security trustee or agent or in any other similar capacity for and on behalf of the Lenders, but excludes the Seller, its immediate shareholders, the Anchor Sponsors and, in each case, any of their Affiliates.

"**Letter of Credit**" means any irrevocable, unconditional, on demand letter of credit in a form acceptable to the Seller, acting reasonably, issued in favour of the Seller by an Acceptable Bank and valid for a term of no less than 12 months.

"**Liquidity Support Balance**" means the sum of:

- (i) the balance standing to the credit of any Escrow Account;
- (ii) the uncalled face value of any valid and enforceable Letter of Credit;
- (iii) the uncalled and available for draw face value of any valid and enforceable Guaranteed Letter of Credit; and
- (iv) the amount of any cash security held by the Seller in the Borrower Account pursuant to paragraph (iii) of Clause 13.5.1 (*No Qualifying Credit Enhancement – All Liquidity Support Inadequacy Events*).

"**Liquidity Support Inadequacy Event**" means:

- (i) the Seller ceasing to be capable of calling on a Letter of Credit or a Letter of Credit being terminated;
- (ii) the Seller ceasing to be capable of making withdrawals from any Escrow Account or any Escrow Account being closed;
- (iii) in respect of an LC Issuing Bank or Escrow Agent only, the LC Issuing Bank or Escrow Agent (as the case may be) ceasing to be an Acceptable Bank; and/or
- (iv) amounts not being capable of being demanded by the Seller or payable by the LC Issuing Bank under a Guaranteed Letter of Credit, a Guaranteed Letter of Credit being suspended or terminated or any Qualifying Credit Enhancement in support of an Escrow Account or Guaranteed Letter of Credit being suspended or terminated.

"**Liquidity Support Period**" means the period starting from the Commercial Operations Date<sup>11</sup> until the date falling at least 90 days after the termination or expiry of this Agreement.

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<sup>11</sup> Incorporation of Commercial Operations Date as start of Liquidity Support Period (as opposed to Effective Date) remains subject to lender credit approval.

"**Livelihood Restoration Plan**" or "**LRP**" means the plan to be prepared by the [Purchaser]/[Seller] [as a Condition Precedent in accordance with Clause 2.6 (*Environmental and Social Conditions to Effectiveness*)], including measures to restore the livelihoods of Project affected persons.]<sup>12</sup>

"**Longstop Commercial Operations Date**" means the date which is 180 days after the Scheduled Commercial Operations Date, or such later date as results from an extension pursuant to Clause 14.5 (*Relief from liability and extensions of time*).

"**Longstop Effective Date**" means the date specified in Section A (*General*) of Schedule 2 (*Project specific information*), or such later date as results from an extension pursuant to Clause 2.4 (*Non-fulfilment*) or Clause 14.5 (*Relief from liability and extensions of time*).

"**Main Meter**" means energy metering device(s) (and all associated equipment), installed by the Seller at the Delivery Point at the PV Plant used to measure and record the PV Plant Net Electrical Output and auxiliary power and at the Delivery Point at the BESS used to measure and record BESS Net Electrical Output and Charging Energy (Grid).

"**Manmade Underground Obstruction**" means any artificial underground objects, constructions or caverns at the Site, the existence, extent and/or details of which were not known to the Seller and could not have been foreseen by an engineering and construction contractor acting in accordance with the standards of prudence applicable to the international construction industry (including as based on the Site related information disclosed by or on behalf of the Purchaser or the Government to the Seller in writing on or before the date of this Agreement).

"**Matter for Expert Determination**" has the meaning given in Clause 21.3.1(ii).

"**Mechanical Completion Test**" means the test described in paragraph 4 (*Mechanical Completion Test*) of Schedule 6 (*Commissioning of Complex and Testing*).

"**Metering System**" means the Main Meter and the Back-Up Meter, as more particularly described in Schedule 5 (*Metering requirements*).

"**Minimum Interest**" means the minimum permitted direct or indirect interest of an Anchor Sponsor in the Seller, being:

- (i) a beneficial economic interest equal to the interest held by that Anchor Sponsor on the date of this Agreement or 50.1 per cent., if less; and
- (ii) (at least) the ability to veto material decisions taken by the Seller, including the adoption of its budget and business plan.

"**Month**" means a calendar month according to the Gregorian calendar, beginning at 00:00:01 on the first day of the month and ending at 24:00:00 on the last day of that month.

"**Monthly Capacity Payment Amount**" has the meaning given in Clause 12.1 (*Billing*).

"**Monthly Energy Payment Amount**" has the meaning given in Clause 12.1 (*Billing*).

"**Net Charging Energy (Grid)**" means, in respect of a Month, the aggregate Charging Energy (Grid) in respect of that Month minus the PV Plant Net Electrical Output in respect of that Month,

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<sup>12</sup> Please consult with lender's E&S specialist as to whether a LRP is needed and if so, whether the Purchaser or the Seller shall be responsible for it, as this may differ on a project by project basis.

in each case, expressed in MWh. In the event that Net Charging Energy (Grid) is a negative number, the Net Charging Energy (Grid) shall be deemed to be zero.

**"Net Dependable Capacity"** means the BESS Achieved Capacity (expressed in MW<sub>AC</sub>) during the most recent Storage Capacity Test.

**"No Fault Purchaser Risk Event"** has the meaning given in Clause 14.1.1.

**"Non-Dispatch Hours"** means the hours of [x] until [x] and [x] until [x] each day.

**"Novation Certificate"** has the meaning given in the Government Support Agreement.

**"O&M Contractor"** means an entity from the list of possible O&M contractors set out in Part III (*Key Components and Contractors*) of Schedule 1 (*Seller specific information*) to be notified to the Purchaser before the Effective Date (where such functions are not being carried out by the Seller or its Affiliates).

**"Operating Period Energy"** means all PV Plant Net Electrical Output and BESS Net Electrical Output generated after 00:00 on the Commercial Operations Date.

**"Original Scheduled Commercial Operations Date"** means the date falling the number of days after the Effective Date as is specified in Section A (*General*) of Schedule 2 (*Project specific information*).

**"Performance Bond"** means the unconditional and irrevocable on-demand performance security from an Acceptable Bank, to be procured by the Seller in accordance with Clause 2.5.2 (*Performance Bond*), in favour of the Purchaser for an amount equal to the Performance Bond Amount in substantially in the form set out in Schedule 14 (*Form of Performance Bond*).

**"Performance Bond Amount"** means the amount specified in Section A (*General*) of Schedule 2 (*Project specific information*).

**"Permitted Scheduled Outage"** means the number of hours of Scheduled Outage as stated in Part II (*Tariff Information*) of Schedule 1 (*Seller specific information*).

**"Permitted Unscheduled Outage"** means the number of hours of Unscheduled Outage as stated in Part II (*Tariff Information*) of Schedule 1 (*Seller specific information*).

**"PIF Land Agreement"** means an agreement or agreements between the Seller and [name of transferor/landlord] dated on or around the date of this Agreement granting the Seller rights to own or to use, occupy and access, or transferring to the Seller (as the case may be), any land required for the construction and operation of the Purchaser Interconnection Facilities.

**"PIF Transfer Agreement"** means the agreement to be entered into between the Purchaser and the Seller on the Commercial Operations Date in connection with the transfer of the Purchaser Interconnection Facilities and the PIF Land Agreement, substantially in the form set out in Schedule 10 (*Form of PIF Transfer Agreement*).

**"PPA Commissioning Tests"** means the tests and procedures for the PV Plant, BESS and the Purchaser Interconnection Facilities as set out in Schedule 6 (*Commissioning of Complex and Testing*) and Schedule 4 (*Purchaser Interconnection Facilities*) respectively.

**"Project"** means the project to design, construct, finance, own, operate and maintain the Complex and, prior to the Commercial Operations Date, the Purchaser Interconnection Facilities.

**"Project Development Cost Amount"** means the portion of the Bid Bond corresponding to the cost incurred by the Purchaser and/or Government in developing and tendering the Project, the amount of which is specified in Section A (*General*) of Schedule 2 (*Project specific information*).

**"Project Documents"** means this Agreement, the Related Agreements, the Construction Contract and any other contract, agreement, deed or other document entered into by or for the benefit of the Seller in connection with the Project, other than any Financing Agreement.

**"Project Site Data"** has the meaning given in the Government Support Agreement.

**"Prudent Utility Practice"** means, in relation to either Party, generally accepted international industry design, construction, operating and maintenance practices with respect to the photovoltaic electric power generation, transmission or distribution industries (as applicable), including the standards of practice of a person exercising that degree of skill, diligence, prudence and foresight which could reasonably be expected from a skilled and experienced person engaged in the same type of undertaking.

**"Purchaser Default"** means a breach by the Purchaser of any provision of this Agreement or the occurrence of any other event or circumstance which with the passage of time or the giving of notice would constitute a Purchaser Event of Default.

**"Purchaser Event of Default"** has the meaning given in Clause 17.3 (*Purchaser Events of Default*).

**"Purchaser Interconnection Facilities"** means the Back-Up Meter and the facilities (including the substation, where relevant), equipment and power transmission lines to be constructed or installed and paid for by the Seller (on behalf of the Purchaser) on the Purchaser's side of each Delivery Point for the purposes of connecting the Complex with the Grid System, as more particularly described in Schedule 4 (*Purchaser Interconnection Facilities*).

**"Purchaser Risk Event"** has the meaning given in Clause 14.1.3.

**"PV Plant"** means the solar photovoltaic electric power generation plant that is located at the Site, together with substations and all balance of plant up to the Delivery Point at the PV Plant, whether or not located on the Site, as more particularly described in Schedule 3 (*Complex – Minimum functional specifications and standards*).

**"PV Plant Achieved Capacity"** means the actual maximum alternating current export capacity of the PV Plant at the Delivery Point expressed in MW<sub>AC</sub>, as determined in accordance with paragraph 8 (*Calculation of the PV Plant Achieved Capacity*) of Schedule 6 (*Commissioning of Complex and Testing*).

**"PV Plant Contracted Capacity"** means the value, in MW<sub>AC</sub>, of alternating current capacity specified in Section A (*General*) of Schedule 2 (*Project specific information*), being the contracted capacity of the PV Plant, as may be amended in accordance with Clause 5.4 (*Commercial Operations Date*).

**"PV Plant Metered Energy"** means, in any period, the PV Plant Net Electrical Output (expressed in kWh) that is recorded by the Main Meter (or, where required under Schedule 5 (*Metering requirements*), the Back-Up Meter) in that period.

**"PV Plant Minimum Acceptance Capacity"** means the proportion of the PV Plant Contracted Capacity which must be Commissioned by the Longstop Commercial Operations Date, as specified in Section A (*General*) of Schedule 2 (*Project specific information*).

**"PV Plant Net Electrical Output"** means the electrical energy discharged by the PV Plant, expressed in kWh, that is delivered by the Seller to the Purchaser at the Delivery Point at the PV Plant in accordance with the terms of this Agreement.

**"PV Plant Performance Ratio"** means the performance ratio of the PV Plant as determined in accordance with paragraph 6 (*PV Plant Performance Test*) of Schedule 6 (*Commissioning of Complex and Testing*).

**"PV Plant Performance Test"** means the test described in paragraph 6 (*PV Plant Performance Test*) of Schedule 6 (*Commissioning of Complex and Testing*).

**"Qualifying Credit Enhancement"** means a credit support arrangement, which is to be effective from the Effective Date until the end of the time period specified at Section E (*Qualifying Credit Enhancement*) of Part I (- General) of Schedule 1 (*Seller specific information*)<sup>13</sup> (subject to any subsequent replacement by the Purchaser pursuant to Clause 13.4.1), howsoever documented in one or more documents, under which a multilateral financial institution (a) having an international rating for its long-term unsecured unsubordinated debt obligations of "AAA" (Standard & Poor's Ratings Services or Fitch Ratings Limited) or "Aaa" (Moody's Investors Service, Inc.), or (b) which is otherwise acceptable to the Parties:

- (i) guarantees directly to the Seller the performance by the Government of its obligation to make further deposits under clause 5.2 (*Primary obligation to top-up the Liquidity Support Balance*) of the Government Support Agreement; or
- (ii) supports the performance of the Purchaser and Government payment obligations through the provision of guarantees or other assurances to an LC Issuing Bank so as to procure the issuance of a Guaranteed Letter of Credit on behalf of the Purchaser,

in each case, to the extent such Purchaser and/or Government obligations arise after the commencement of the Liquidity Support Period.

**"Related Agreements"** means the agreements specified in Section A (*General*) of Schedule 2 (*Project specific information*).

**"Related-Party Default Event"** means:

- (i) a Purchaser Default;
- (ii) a Government Default; or
- (iii) a breach by the Purchaser, the Government or a Government Related Party of a Related Agreement (other than the Government Support Agreement), or the occurrence of any other event or circumstance which, with the passage of time or the giving of notice, would constitute an event of default or termination (howsoever described) entitling the Seller to terminate any such Related Agreement.

**"Relief Event"** has the meaning given in Clause 14.1 (*Events permitting relief*).

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<sup>13</sup> **Note:** This template PPA assumes that the Project will be debt financed, at least in part. If the possibility of an all-equity funded Project arises, the project team should liaise with the relevant person at the World Bank's Infrastructure Financing and Guarantees Group to confirm whether the payment guarantee on the liquidity mechanism will be available in such case. The team should ask transaction counsel to identify changes needing to be made to this template PPA as a result of such financing structure.

"**Replacement Period**" has the meaning given in Clause 13.5.3 (*Qualifying Credit Enhancement - Liquidity Support Inadequacy Event attributable to LC Issuing Bank or Escrow Agent*).

"**Required Liquidity Support Amount**" means the amount specified in Section A (*General*) of Schedule 2 (*Project specific information*).

"**Resettlement Action Plan**" or "**RAP**" means the plan required to be prepared by the [Purchaser]/[Seller] [as a Condition Precedent in accordance with Clause 2.6 (*Environmental and Social Conditions to Effectiveness*)], including measures to mitigate adverse impacts of displacement of Project affected persons.<sup>14</sup>

"**RFP**" means the document entitled "Request for Proposal for a [X] MW Utility Scale Combined Solar Photovoltaic (PV) Plant and BESS in [location]" dated [date].

"**Roundtrip Efficiency Test**" means the test described beneath the sub-heading 'Roundtrip Efficiency test' in Schedule 6 (*Commissioning of Complex and Testing*).

"**RTE Minimum Performance Metric**" means an RTE Ratio equal to at least [x] per cent. ([x]%) as measured at the Delivery Point at the BESS.<sup>15</sup>

"**RTE Performance Metric**" means an RTE Ratio equal to at least [eighty five] per cent. ([85]%) as measured at the Delivery Point at the BESS.

"**RTE Ratio**" means the number expressed as a percentage, equal to the total BESS Net Electrical Output (MWh discharged) delivered at the Delivery Point at the BESS to bring the BESS to a 0% State of Charge divided by the total Charging Energy (Grid) at the Delivery Point at the BESS to bring the BESS from the minimum to the maximum State of Charge from the grid according to Purchaser Dispatch Instruction.

"**Rules**" has the meaning given in Clause 21.4.1 (*Arbitration*).

"**Sanctions**" means economic, financial or trade sanctions or restrictive measures enacted, imposed, administered or enforced from time to time by (i) the US government or any US agency (including the Office of Foreign Assets Control of the United States Department of the Treasury, the US State Department, the US Department of Commerce or the US Department of the Treasury), (ii) the United Nations Security Council, or (iii) the European Union (or any of its member states), including, in each case, any other governmental institution of any of the foregoing.

"**SCADA System**" means the supervisory, control and data acquisition (SCADA) system to create, record, process, gather, report, communicate and archive the operating data in the Complex to be installed by the Seller as described in Schedule 3 (*Complex – Minimum functional specifications and standards*).

"**Scheduled Commercial Operations Date**" means the Original Scheduled Commercial Operations Date or such later date as results from an extension pursuant to Clause 14.5 (*Relief from liability and extensions of time*).

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<sup>14</sup> Please consult with an E&S specialist as to whether a RAP is needed and if so, whether the Purchaser or the Seller shall be responsible for resettlement, as this may differ on a project by project basis.

<sup>15</sup> **Note:** Consider including an RTE Minimum Performance Metric which would allow COD to occur notwithstanding that the RTE Performance Metric has not been met. It would need to be considered if the project can support the lower minimum levels of capacity and RTE which are permitted on the Longstop Date and what the total impact of these is.

"**Scheduled Outage**" has the meaning given in paragraph 1.1 of Section A (*Maintenance*) of Schedule 8 (*Requirements for maintenance, operating limits and despatch procedures*).

"**Seller Event of Default**" has the meaning given in Clause 17.2 (*Seller Events of Default*).

"**Shared Risk Event**" has the meaning given in Clause 14.1.1.

"**Site**" has the meaning given in Section A (*General*) of Schedule 2 (*Project specific information*).<sup>16</sup>

"**Specialized Battery Subcontractor**" means an entity, if any, on the list of possible specialized battery subcontractors for each Construction Contractor set out in Part III (*Key Components and Contractors*) of Schedule 1 (*Seller specific information*) to be notified to the Purchaser before the Effective Date (where such functions are not being carried out by the Seller or the Seller's affiliates).

["**Specified Fiscal Assumptions**" has the meaning given in the Government Support Agreement.]<sup>17</sup>

"**State of Charge**" means the amount of alternating current electrical energy (expressed in MWh) stored in the BESS stated as a percentage of the BESS Contracted Capacity (expressed in MWh) (e.g., 80% State of Charge).

"**Storage Availability Factor**" means a percentage calculated as: (i) the number of Storage Available Hours during the applicable Contract Year, divided by (ii) the aggregate number of Dispatch Hours during the applicable Contract Year.

"**Storage Available Hours**" means (a) the Dispatch Hours (including hours of partial availability, pro rata on a weighted basis) in the relevant period in which the BESS was capable of making Available the Net Dependable Capacity, plus (b) the number of Dispatch Hours during the relevant period which BESS is not capable of making Available the Net Dependable Capacity as a result of (i) a Relief Event; (ii) an Emergency; (iii) a Permitted Scheduled Outage or (iii) a Permitted Unscheduled Outage, in each case as assessed by reference to the SCADA System data.<sup>18</sup>

"**Storage Capacity Test**" means the test described beneath the sub-heading 'Storage Capacity Test' in Schedule 6 (*Commissioning of Complex and Testing*).

"**Surviving Provisions**" means this Clause 1 (*Definitions and interpretation*), Clause 2.4 (*Non-fulfilment*), Clause 17.7 (*Obligations upon termination*), Clause 17.8 (*Other remedies*), Clause 17.9 (*Consequential loss*), Clause 18 (*Confidentiality*), Clause 21 (*Dispute resolution*), Clause 22 (*Notices*) and Clause 23.9 (*Governing law*).

"**Tax**" means all forms of taxation, duties, imposts, levies and rates however imposed and applicable pursuant to the Laws of [**country**].

"**Technical Limits**" means the limits and constraints with which the Project is required to comply, described in Schedule 7 (*Technical Limits*).

"**Term**" has the meaning given to such term in Clause [3.1 (*Term*)].

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<sup>16</sup> **Note:** Please refer to drafting notes for discussion of Projects involving multiple sites, if required.

<sup>17</sup> **Note:** Please refer to PPA and GSA Drafting Notes for explanation of Specified Fiscal Assumption concept.

<sup>18</sup> **Note:** The Storage Available Hours concept is relevant for the purposes of calculating the Guaranteed Storage Availability, which is a minimum performance standard the BESS is tested against. Whilst the Available Storage Capacity is an assumed availability which the Seller is paid on the basis of.

"**Termination Notice**" has the meaning given in the Direct Agreement.

"**Threshold Loss Event**" means the occurrence of an event or series of events which results in the destruction of, or irreparable damage to, such proportion of the Complex as is specified in Section A (*General*) of Schedule 2 (*Project specific information*).

"**Unscheduled Outage**" has the meaning given in paragraph 3.1 of Section A (*Maintenance*) of Schedule 8 (*Requirements for maintenance, operating limits and despatch procedures*).

"**US Dollars**" and "**USD**" means the lawful currency of the United States of America.

"**Wilful Misconduct**" means a deliberate act or omission of a Party in circumstances where it knew that the other Party (or its personnel or contractors) would, or would be reasonably likely to, suffer loss or damage as a consequence.

"**WB Performance Standards**" means the World Bank Performance Standards for Private Sector Activities as approved by IDA and IBRD's Board of Executive Directors on 26 June 2012 which can be found using the following link:

[http://web.worldbank.org/archive/website01541/WEB/0\\_\\_C-116.HTM](http://web.worldbank.org/archive/website01541/WEB/0__C-116.HTM).

## 1.2 Interpretation

In this Agreement:

- 1.2.1 References to one gender include all genders and references to the singular include the plural and vice versa.
- 1.2.2 References to:
  - (i) a person include any company, partnership or unincorporated association (whether or not having separate legal personality); and
  - (ii) a company include any company, corporation or any body corporate, wherever incorporated.
- 1.2.3 References to a provision of law are references to that provision as amended, extended or re-enacted and include all laws and official requirements made under or deriving validity from it or enacting such modification (without limiting the rights of the Seller with respect to Change in Law as provided under this Agreement).
- 1.2.4 References to this Agreement shall include any Recitals and Schedules to it and references to Clauses and Schedules are to Clauses of, and Schedules to, this Agreement. References to paragraphs and Parts are to paragraphs and Parts of the Schedules.
- 1.2.5 Headings shall be ignored in interpreting this Agreement.
- 1.2.6 References to any document (including this Agreement), or to a provision in a document, shall be construed as references to such document or provision as amended, supplemented, modified, restated or novated from time to time.
- 1.2.7 The words "including", "include", "in particular" and words of similar effect shall not be deemed to limit the general effect of the words that precede them.

- 1.2.8** The language which governs the interpretation of this Agreement is the English language.
- 1.2.9** A reference to any "Party" includes its successors in title, permitted assignees and transferees.
- 1.2.10** A reference to a "day" means a 24-hour period beginning at 00:00:01 on a day and ending at 24:00:00 on that day.
- 1.2.11** If the date for satisfaction of any obligation under this Agreement is due to occur on a [Friday,] a Saturday, [a Sunday]<sup>19</sup> or a public holiday in [country], that date shall occur on the next day which is not a Saturday, a Sunday or a public holiday in [country].
- 1.2.12** A reference to a Guaranteed Letter of Credit being "suspended" or "terminated" includes any event, howsoever described, having analogous effect to suspension or termination or otherwise causing a Guaranteed Letter of Credit to cease being available for drawing.
- 1.2.13** References to "**Government Infrastructure**" or "**Government Infrastructure Completion Date**" in this Agreement shall only be applicable to the extent that any Government Infrastructure is included in schedule 8 (*Government Infrastructure*) of the Government Support Agreement.

### 1.3 **Priority of documentation**

If there is any inconsistency between any of the provisions of the main body of this Agreement and the Schedules, the main body of this Agreement shall take precedence.

## 2 **Conditions Precedent**

### 2.1 **Conditions Precedent**

- 2.1.1** Clause 1 (*Definitions and interpretation*), this Clause 2 (*Conditions Precedent*), paragraph (i) of Clause 5.1.3 (*Construction of the Complex and Purchaser Interconnection Facilities*), paragraph (ii) of Clause 5.1.3 (*Construction of the Complex and Purchaser Interconnection Facilities*), Clause 10.1 (*Mutual undertakings of the Parties – general*), Clause 10.2 (*Mutual undertakings of the Parties – access and cross-indemnity*), Clause 10.5 (*Tax undertakings*), Clause 11 (*Representations and warranties of the Parties*), Clause 14 (*Relief Events*), Clause 18 (*Confidentiality*), Clause 19 (*Transfer and assignment*), Clause 21 (*Dispute resolution*), Clause 22 (*Notices*) and Clause 23 (*General*) shall be effective on and from the date of this Agreement.
- 2.1.2** The remaining Clauses of this Agreement shall come into full force and effect on and from the Effective Date.

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<sup>19</sup> **Note:** Delete as appropriate based on working week in relevant jurisdiction.

2.2 [Intentionally Left Blank]

2.3 Fulfilment of Conditions Precedent<sup>20</sup>

2.3.1 Each Party undertakes to use reasonable endeavours to ensure the timely fulfilment of the Conditions Precedent.

2.3.2 Where a Party considers that a Condition Precedent has been satisfied, it shall promptly notify the other Party.

2.3.3 Each Party may, in its sole discretion, waive any Condition Precedent which is designated as being the responsibility of the other Party by notice in writing to that Party.<sup>21</sup>

2.4 Non-fulfilment of Conditions Precedent

2.4.1 If the Conditions Precedent are not satisfied in full or waived by the Longstop Effective Date (or such later date as the Parties may agree in writing), then this Agreement shall be immediately terminable by either Party by a notice in writing to the other Party with immediate effect.

2.4.2 If:

- (i) any Condition Precedent for which the Purchaser is responsible is not satisfied or waived by the Longstop Effective Date; or
- (ii) the satisfaction of any Condition Precedent for which the Seller is responsible is delayed by any Relief Event which is a Purchaser Risk Event or a No Fault Purchaser Risk Event,

the Seller shall be entitled to an extension to the Longstop Effective Date by one day for each day that the Effective Date is delayed as a result of such events or circumstances. If the Parties are unable to agree the extension of time to which the Seller is entitled under this Clause, either Party shall, subject to Clause 21.2 (*Amicable resolution*), be entitled to submit an outstanding Dispute to an Expert in accordance with Clause 21.3 (*Expert determination*).

Notwithstanding anything to the contrary in this Agreement, the Seller shall not be entitled to any extension to the Longstop Effective Date of more than [180] days beyond the Longstop Effective Date specified in Section A (*General*) of Schedule 2 (*Project specific information*), unless otherwise agreed by the Parties in writing.

2.4.3 Subject to Clauses 2.4.4 and 2.4.5, upon termination of this Agreement under Clause 2.4.1, neither Party shall have any claim against the other Party and both Parties shall be discharged from their obligations to each other.

2.4.4 If:

- (i) this Agreement has been terminated under Clause 2.4.1 and, on the date of termination, the Seller has not satisfied any of the Conditions Precedent for which it is responsible and provided that:

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<sup>20</sup> **Note:** Please refer to drafting notes for discussion regarding optional Conditions Precedent contained in the template.

<sup>21</sup> **Note:** Bidders to note that such rights of waiver by the Seller are controlled by Clause 2.6 in the Direct Agreement (the form of which is a schedule to the Government Support Agreement).

- (ii) such failure of the Seller is not attributable to:
  - (a) a Relief Event which is a Purchaser Risk Event or a No Fault Purchaser Risk Event;
  - (b) the failure of the Purchaser to satisfy any Conditions Precedent for which it is responsible;
  - (c) the failure of the Purchaser to use reasonable endeavours to assist the Seller in satisfying the Conditions Precedent for which the Seller is responsible as required by Clause 2.3.1; or
  - (d) the failure of the Purchaser to make timely and sufficient progress in the satisfaction of the Conditions Precedent for which the Purchaser is responsible or the Conditions Precedent for which the Parties are jointly responsible, to the extent such timely and sufficient progress is reasonably necessary to enable the Seller to satisfy the Conditions Precedent for which the Seller is responsible by the Longstop Effective Date; and
- (iii) the Purchaser has satisfied each of the Conditions Precedent for which it is responsible, excluding any Condition Precedent that the Purchaser has failed to satisfy as a result of:
  - (a) the Seller's failure to satisfy any of the Conditions Precedent for which it is responsible other than for reasons attributable to a Relief Event which is a Purchaser Risk Event or a No Fault Purchaser Risk Event or the circumstances referred to in Clause 2.4.5(iii) below;
  - (b) the failure of the Seller to use reasonable endeavours to assist the Purchaser in satisfying the Conditions Precedent for which the Purchaser is responsible as required by Clause 2.3.1; or
  - (c) the failure of the Seller to make timely and sufficient progress in the satisfaction of the Conditions Precedent for which the Seller is responsible or the Conditions Precedent for which the Parties are jointly responsible, to the extent such timely and sufficient progress is reasonably necessary to enable the Purchaser to satisfy the Conditions Precedent for which it is responsible by the Longstop Effective Date,

then the Purchaser shall be entitled to draw on the Bid Bond for the Project Development Cost Amount.

**2.4.5** If this Agreement has been terminated under Clause 2.4.1 and on the date of termination:

- (i) the Purchaser has not satisfied any of the Conditions Precedent for which it is responsible excluding any Condition Precedent that the Purchaser has failed to satisfy as a result of:
  - (a) the Seller's failure to satisfy any of the Conditions Precedent for which it is responsible other than for reasons attributable to a Relief Event which is a Purchaser Risk Event or a No Fault Purchaser Risk Event or the circumstances referred to in paragraph (iii) below);

- (b) the failure of the Seller to use reasonable endeavours to assist the Purchaser in satisfying the Conditions Precedent for which the Purchaser is responsible as required by Clause 2.3.1; or
  - (c) the failure of the Seller to make timely and sufficient progress in the satisfaction of the Conditions Precedent for which the Seller is responsible or the Conditions Precedent for which the Parties are jointly responsible, to the extent such timely and sufficient progress is reasonably necessary to enable the Purchaser to satisfy the Conditions Precedent for which it is responsible by the Longstop Effective Date;
- (ii) the Seller has not satisfied any of the Conditions Precedent for which it is responsible for reasons attributable to a Relief Event which is a Purchaser Risk Event or a No Fault Purchaser Risk Event; or
  - (iii) the Purchaser, to the extent it is specified to have such responsibility, has not completed the ESIA [or [LRP]/[RAP]] with sufficient time to allow the Seller to satisfy any related Condition Precedent for which the Seller is responsible under the Agreement,

then, provided that the Seller has satisfied each of the Conditions Precedent for which it is responsible, excluding any Condition Precedent that the Seller has failed to satisfy as a result of:

- (iv) a failure by the Purchaser to satisfy the Conditions Precedent for which it is responsible and which failure falls within paragraph (i) above,
- (v) a Relief Event which is a Purchaser Risk Event or a No Fault Purchaser Risk Event (or the circumstances referred to in paragraph (iii) above),
- (vi) the failure of the Purchaser to use reasonable endeavours to assist the Seller in satisfying the Conditions Precedent for which the Seller is responsible as required by Clause 2.3.1; or
- (vii) the failure of the Purchaser to make timely and sufficient progress in the satisfaction of the Conditions Precedent for which the Purchaser is responsible or the Conditions Precedent for which the Parties are jointly responsible, to the extent such timely and sufficient progress is reasonably necessary to enable the Seller to satisfy the Conditions Precedent for which the Seller is responsible by the Longstop Effective Date,

the Seller shall be entitled to compensation in the amount set forth in schedule 6 (*Termination payments and Transfer*) of the Government Support Agreement.

## **2.5 Bid Bond and Performance Bond**

### **2.5.1 Bid Bond**

- (i) The Purchaser acknowledges that the Seller has procured the Bid Bond in accordance with the RFP.
- (ii) The Purchaser shall return the Bid Bond to the Seller within seven days of the earlier of (a) the date that it receives the Performance Bond in accordance with the provisions of this Agreement, and (b) where it is not entitled to call on the Bid

Bond in accordance with the provisions of Clause 2.4.4, the Longstop Effective Date.

### 2.5.2 Performance Bond

- (i) Subject to paragraph (ii) below, the Seller shall ensure that the Performance Bond, to be procured by the Seller as a Condition Precedent to the Effective Date, has an expiry date that is no earlier than 30 days after the Longstop Commercial Operations Date (as defined at the date of this Agreement).
- (ii) The Purchaser shall return the Performance Bond to the Seller within seven days of the earlier of (a) the Commercial Operations Date, and (b) where it is not entitled to call on the Performance Bond in accordance with the provisions of Clause 17.7.2, the date of termination of this Agreement.

### 2.5.3 General provisions

- (i) If the Longstop Effective Date or Longstop Commercial Operations Date is extended pursuant to Clause 14.5 (*Relief from liability and extensions of time*) and the Bid Bond or Performance Bond contains an expiry date which is earlier than the date on which such performance security is required to be returned to the Seller pursuant to Clause 2.5.1 (*Bid Bond*) or Clause 2.5.2 (*Performance Bond*), the Seller must no later than 30 days prior to such expiry date procure an extension of the expiry date by providing to the Purchaser written and signed confirmation from the issuer of such performance security of the extension.
- (ii) If the Seller fails to procure such extension by a date which is 14 days prior to the expiry date of the Bid Bond or Performance Bond (as applicable), the Purchaser may draw on the performance security in full and hold the proceeds as cash security in a collateral account. Subject to the Purchaser's right to have recourse to the cash security pursuant to paragraph (iii) below, such amount shall be repaid to the Seller immediately upon the Seller delivering to the Purchaser an extension of, or replacement for, the performance security meeting the requirements of this Agreement.
- (iii) The Purchaser shall have the right to have recourse to the cash security in the collateral account in the same way that it would be entitled to have recourse to the proceeds of the Bid Bond or Performance Bond in accordance with this Agreement.

## 2.6 Environmental and Social Conditions to Effectiveness

- 2.6.1** [Each of the]/[The] ESIA [and the [RAP]/[LRP]]<sup>22</sup>, which [is]/[are] to be completed as [a] condition[s] to the Effective Date, as further specified as [a] Condition[s] Precedent in accordance with line[s] 8[, 9 and 10] of Section C (*Conditions Precedent*) of Schedule 2 (*Project specific information*), shall:
- (i) be prepared on behalf of the [Purchaser]/[Seller] by competent professional advisers [distinct from the Independent Engineer]<sup>23</sup> having relevant experience

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<sup>22</sup> If the team concludes (on consultation with lender's E&S specialist) that the project calls for a RAP/LRP, but under the circumstances such plan will not be a condition precedent to effectiveness of the PPA, the team will need to discuss with transaction counsel where else (other than in this Clause 2.6) to insert the obligation to prepare the plan.

<sup>23</sup> Consider including bracketed language if there is potential concern that the IE might not provide impartial advice to the Purchaser (on, e.g., the adequacy of the ESIA, RAP, etc.) if the same consultant prepared such plans.

in conducting environmental and social impact assessments for similar projects in the region, as well as appropriate experience in applying the WB Performance Standards (or equivalent standards); and

- (ii) meet the requirements of:
  - (a) E&S Laws; and
  - (b) the WB Performance Standards;

in each case, as further guided by the EHS Guidelines and in conformance with the ESIA Terms of Reference as set out in Schedule 16 (*ESIA Terms of Reference*).<sup>24</sup>

**2.6.2** As a condition to the Effective Date, any obligations set forth in the [ESIA,] [RAP,] [LRP] that are required by their terms to have been completed prior to the Effective Date (including, as applicable, that compensation has been made available and, where applicable, resettlement sites and moving allowances have been provided to persons), shall have been satisfied.

**2.6.3** As a condition to the Effective Date, the Independent Engineer shall have reviewed and confirmed the satisfaction of the conditions set forth in Clauses 2.6.1 and 2.6.2; provided that following any finding by the Independent Engineer that any such condition has not been met, the responsible Party may take such additional actions as may be required to satisfy any unmet conditions and re-submit additional materials or evidence to the Independent Engineer for its re-evaluation of whether the conditions set forth in Clauses 2.6.1 and 2.6.2 have been satisfied.

### 3 Term of Agreement

#### 3.1 Term

**3.1.1** Subject to Clause 2.1 (*Conditions Precedent*), this Agreement shall be effective from the Effective Date and shall continue in full force and effect until the earlier of:

- (i) the date of termination of this Agreement in accordance with Clause 17 (*Default and termination*); and
- (ii) the date of expiry of a period of [25] years from the Scheduled Commercial Operations Date unless extended in accordance with Clause 3.2 (*Extension of the term*),

**3.1.2** Notwithstanding Clause 3.1.1 and with the exception of Clause 8.2 all of the provisions in this Agreement related to the BESS (including the operation, maintenance, performance of the BESS and the scheduling and payment for Available Storage Capacity) shall automatically terminate, be null and void and of no force and effect from and effective as of the BESS Term Expiry Date unless extended in accordance with Clause 3.2. with the exception of Clause 8.2, effective as of the BESS Term Expiry Date, this Agreement shall be deemed amended to reflect the termination of such provisions, and the Parties shall thereafter use commercially reasonable efforts to execute an amendment to this Agreement consistent with the terms of this Clause 3.1.2.

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<sup>24</sup> **Note:** The ESIA TOR will be determined with the Purchaser prior to the bidding process.

### 3.2 Extension of the term

- 3.2.1 The expiry date set out in Clause 3.1.1(ii) shall be extended by one day for each day (or part thereof) on which the Seller is affected by a Shared Risk Event for which it is entitled to relief under Clause 14 (*Relief Events*).
- 3.2.2 In circumstances in which the Seller is not able to provide Available Storage Capacity from the BESS, and to the extent of such outage (other than to the extent such outage is a Scheduled Outage or a Permitted Unscheduled Outage), the BESS Term Expiry Date shall be extended by one day for each day (or part thereof) on which the Seller is affected by a Shared Risk Event<sup>25</sup> for which it is entitled to relief under Clause 14 (*Relief Events*).
- 3.2.3 The expiry date set out in Clause 3.1.1(ii) may be extended by agreement between the Parties.
- 3.2.4 The BESS Term Expiry Date set out in Clause 3.1.2 may be extended by agreement between the Parties, including a later date on which such provisions of this Agreement related to the BESS shall automatically terminate, but in any case shall not exceed the term of this Agreement.

### 3.3 Surviving Provisions

Expiry or termination of this Agreement shall be without prejudice to any accrued rights, remedies, obligations or liabilities of the Parties existing at expiry or termination. The Surviving Provisions shall continue in full force and effect notwithstanding expiry or termination of this Agreement.

## 4 Appointment of Independent Engineer

- 4.1 The Seller and the Purchaser shall within 60 days of the date of this Agreement (and in all events sufficiently in advance to permit the Independent Engineer to perform its responsibilities and provide relevant input hereunder (including in respect of Clause 2.6 (*Environmental and Social Conditions to Effectiveness*)) jointly appoint the Independent Engineer to perform such services and on such terms as are set out in Schedule 13 (*Form of Independent Engineer Agreement*). The Independent Engineer shall be nominated by the Seller from the list of acceptable Independent Engineers as set out in Section D (*Acceptable Independent Engineers*) of Schedule 2 (*Project specific information*).
- 4.2 The Independent Engineer shall be appointed jointly by the Seller and the Purchaser, and shall act on behalf of, and owe a duty of care to, both the Purchaser and the Seller equally.
- 4.3 The Seller and the Purchaser shall share all fees, costs and expenses of the Independent Engineer equally. The Seller shall make all payments to the Independent Engineer on behalf of both Parties (such payments being expressed to have been made equally by the Purchaser and the Seller) and shall invoice the Purchaser for 50 per cent. Of that amount in accordance with Clause 12 (*Compensation, payment and billing*).
- 4.4 If the contract with the Independent Engineer is terminated at any point during the term of this Agreement, a replacement Independent Engineer shall be jointly appointed by the Seller and the Purchaser. The replacement Independent Engineer shall be nominated by the Seller from the list

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<sup>25</sup> **Note:** The impact of a Shared Risk Event as drafted is the extension of the PV Plant term and the BESS term. The alternative to this is to provide revenue compensation for Shared Risk Events to the extent there are adverse effects on the BESS revenue stream (due to the BESS-specific degradation issues which may make tenor extension a less attractive means of recouping lost revenue)

of acceptable Independent Engineers set out in Section D (*Acceptable Independent Engineers*) of Schedule 2 (*Project specific information*) or, where all of such acceptable Independent Engineers no longer exist or are unwilling to agree to any appointment and the Parties are unable to agree on a replacement within 30 days of termination of the existing contract, shall be nominated by an international engineering body. Such replacement Independent Engineer may be appointed only if they agree to perform the services on substantially the same terms as set out in Schedule 13 (*Form of Independent Engineer Agreement*).

## 5 Construction of the Project

### 5.1 Construction of the Complex and Purchaser Interconnection Facilities

**5.1.1** The Seller shall design, construct, install and Commission the Complex in accordance with the requirements of Schedule 3 (*Complex – Minimum functional specifications and standards*), the Grid Code, the Laws of [country], the Technical Limits, good engineering and construction practices and Prudent Utility Practice, and relevant local and international technical standards. Where a conflict exists between the relevant standards, the minimum requirements of the Laws of [country] shall always be met, and the most onerous requirements shall apply.

**5.1.2** The Seller shall design, construct, install and Commission the Purchaser Interconnection Facilities in accordance with the requirements of this Agreement and Schedule 4 (*Purchaser Interconnection Facilities*), the Grid Code, the Laws of [country], the Technical Limits, good engineering and construction practices and Prudent Utility Practice, and relevant local and international technical standards. Where a conflict exists between the relevant standards, the minimum requirements of the Laws of [country] shall always be met, and the most onerous requirements shall apply.

**5.1.3** The Purchaser shall:

- (i) promptly following the date of this Agreement, provide the Seller with all the information reasonably requested by the Seller prior to the date of this Agreement in connection with the design, construction, installation, Commissioning, operation and maintenance of the Complex and the Purchaser Interconnection Facilities and not yet provided to it;
- (ii) at any time after the date of this Agreement, promptly provide the Seller with such other information as the Seller reasonably requests relating to the technical specifications of the Grid System and Technical Limits; and
- (iii) in respect of the Purchaser Interconnection Facilities only, comply with its obligations as specified in Schedule 4 (*Purchaser Interconnection Facilities*) and the Grid Code.

**5.1.4** The Seller shall at all times comply and shall procure that any third party contractors and subcontractors comply, with the requirements of the WB Performance Standards in relation to the design, construction, installation and Commissioning of the Complex and Purchaser Interconnection Facilities.<sup>26</sup>

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<sup>26</sup> **Note:** Teams should refer to the drafting notes for details of potential clauses to include here which relate to granting Site access for the Purchaser's representatives.

**5.1.5** [[Without prejudice to the requirements of Clause 2.6 (*Environmental and Social Conditions to Effectiveness*),] [The]/[the] Seller will not, and shall procure that any third party contractors and subcontractors do not, carry out on the ground construction or pre-construction activities involving physical or economic displacement of persons until all applicable portions of the [RAP]/[LRP] have been implemented in a way consistent with E&S Law and WB Performance Standards, including that compensation has been made available and, where applicable, resettlement sites and moving allowances have been provided to persons.]

## 5.2 Provisions relating to Purchaser Interconnection Facilities

**5.2.1** Contracts for the construction of the Purchaser Interconnection Facilities shall be on standard market terms and in accordance with Prudent Utility Practice. All contracts shall permit the transfer of warranties and other rights (without the contractor's consent) to the Purchaser.

**5.2.2** On or before the Commercial Operations Date, and provided that the Purchaser Interconnection Facilities have been Commissioned, the Purchaser and the Seller shall enter into the PIF Transfer Agreement in order to transfer to the Purchaser:

- (i) the Purchaser Interconnection Facilities;
- (ii) the benefit of any warranties and other rights under the contracts for the construction of the Purchaser Interconnection Facilities; and
- (iii) the PIF Land Agreements.

**5.2.3** The Seller acknowledges that the cost to it of designing, constructing, installing, Commissioning and financing the Purchaser Interconnection Facilities shall be compensated through the Capacity Charge and the Energy Charge and the Seller shall not be entitled to any additional compensation for the same on transfer of the Purchaser Interconnection Facilities to the Purchaser, whether pursuant to Clause 5.2.4(iii), the PIF Transfer Agreement or otherwise.

**5.2.4** From the earlier of the date on which the PIF Transfer Agreement effectively transfers ownership to the Purchaser and the Commercial Operations Date:

- (i) all risks and rewards of ownership of the Purchaser Interconnection Facilities shall pass to the Purchaser;
- (ii) subject to sub-clause (iii) below, the Purchaser shall be responsible for the operation and maintenance of the Purchaser Interconnection Facilities and the Seller shall have no further liability in respect of such Purchaser Interconnection Facilities
- (iii) notwithstanding the transfer of responsibility for the Purchaser Interconnection Facilities to the Purchaser pursuant to this Clause 5.2.4, the Seller shall retain responsibility for (A) monitoring wildlife fatalities associated with the Purchaser Interconnection Facilities; and (B) if required pursuant to Schedule 4 (*Purchaser Interconnection Facilities*), maintaining, repairing and installing bird flight diverters on the Purchaser Interconnection Facilities, and the Purchaser shall do

all that is reasonably necessary to permit the Seller to undertake such responsibilities.<sup>27</sup>

**5.2.5** Subject to Clause 5.2.3 and provided that the Seller has executed the PIF Transfer Agreement pursuant to Clause 5.2.2, if for any reason the effective transfer of the PIF is delayed and occurs after Commercial Operations Date, the Purchaser shall indemnify the Seller for all third party costs, claims, liabilities, expenses (including experts' and professional advisers' fees and expenses), suits, actions or proceedings whatsoever arising out of the Seller's ownership of the Purchaser Interconnection Facilities and interests under the PIF Land Agreements during the period between the Commercial Operations Date and the date that the PIF Transfer Agreement effectively transfers ownership to the Purchaser.

### 5.3 Commissioning<sup>28</sup>

**5.3.1** The Seller shall carry out Commissioning of the Purchaser Interconnection Facilities prior to or simultaneous with the Commercial Operations Date in accordance with Schedule 4 (*Purchaser Interconnection Facilities*) and the Grid Code.

**5.3.2** The Seller shall carry out Commissioning prior to the Commercial Operations Date, in each case in accordance with Schedule 6 (*Commissioning of Complex and Testing*) and the Grid Code.

**5.3.3** The Seller shall not complete Commissioning of the Complex until the Purchaser Interconnection Facilities have been Commissioned.

**5.3.4** The Purchaser shall:

- (i) (a) dispatch or procure dispatch of the BESS upon receipt of notice requiring the dispatch; (b) dispatch or procure dispatch of the PV Plant upon receipt of notice requiring the dispatch; and (c) accept delivery of any PV Plant Net Electrical Output and BESS Net Electrical Output, in each case necessary to permit Commissioning; and
- (ii) supply Charging Energy (Grid) to Seller at the regulated tariff for similar purchasers imposed from time to time by the laws of [country] to the extent required for the BESS to conduct the Storage Capacity Test and Roundtrip Efficiency Test.

**5.3.5** If:

- (i) the anticipated start of Commissioning as notified by the Seller to the Purchaser under Schedule 6 (*Commissioning of Complex and Testing*) falls more than [30] days prior to the Scheduled Commercial Operations Date; and
- (ii) the Purchaser is unable to:

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<sup>27</sup> **Note:** Parties to consult with E&S Specialists for terms of any necessary Seller access rights to be included in the PIF Transfer Agreement.

<sup>28</sup> **Note:** The commissioning obligations contemplate simultaneous commissioning, but separate testing. We have not included a concept of phased commissioning. This reflects that the PV Plant would be used to charge the BESS, so simultaneous commissioning is required.

- (a) (i) dispatch or procure dispatch of the BESS upon receipt of notice requiring the dispatch, (ii) receive and accept the BESS Net Electrical Output or (iii) supply Charging Energy (Grid) to Seller at the regulated tariff for similar purchasers imposed from time to time by the laws of [country] to the extent required for the BESS to conduct the Storage Capacity Test and Roundtrip Efficiency Test, in each case, to the extent necessary to permit Commissioning to occur on and from the anticipated start of Commissioning, or
- (b) (i) dispatch or procure dispatch of the PV Plant upon receipt of notice requiring the dispatch, (ii) accept delivery of any PV Plant Net Electrical Output, to the extent necessary to permit Commissioning to occur on and from the anticipated start of Commissioning,

then, by no later than 21 days after the receipt of the notice under Schedule 6 (*Commissioning of Complex and Testing*), the Purchaser shall notify the Seller in writing and request that the start of Commissioning is rescheduled for a later date, provided that the latest date on which the Purchaser may request that Commissioning commences is [30] days prior to the Scheduled Commercial Operations Date.

#### 5.4 Commercial Operations Date

**5.4.1** The Seller shall use all reasonable endeavours to achieve the Commercial Operations Date by no later than the Scheduled Commercial Operations Date.

**5.4.2** If the Seller becomes aware that, for any reason, it shall not achieve the Commercial Operations Date by the Scheduled Commercial Operations Date, it shall promptly notify the Purchaser of that fact, of the measures that it will take to mitigate such delay and of the date on which it expects to achieve the Commercial Operations Date and the Seller shall keep the Purchaser regularly informed as to its progress of achieving the Commercial Operations Date on the date so notified.

**5.4.3** If on the Longstop Commercial Operations Date<sup>29</sup>:

- (i) the PV Plant Achieved Capacity is equal to or greater than the PV Plant Minimum Acceptance Capacity;
- (ii) the BESS Achieved Capacity is less than the BESS Contracted Capacity but is equal to or greater than the BESS Minimum Storage Capacity; or
- (iii) the RTE Ratio is equal to or greater than the RTE Minimum Performance Metric],

and provided that all of the other PPA Commissioning Tests have been achieved in accordance with Schedule 6 (*Commissioning of Complex and Testing*), then on the Longstop Commercial Operations Date:

- (iv) the Seller shall procure that the Independent Engineer certifies the PV Plant Achieved Capacity, BESS Achieved Capacity and RTE Ratio that has successfully been Commissioned by that date;

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<sup>29</sup> **Note:** The effect of this clause 5.4.3 is that the Complex may be commissioned at the respective minimum rates despite not achieving the originally intended performance metrics (PV capacity, BESS capacity and RTE). If all 3 tests are not achieved, it should be considered whether the cumulative effect of the non-compliance with the original standards have a material impact on the project. The minimum standards set should be considered on this basis.

- (v) the Commercial Operations Date shall be deemed to have occurred with respect to the respective PV Plant Achieved Capacity, BESS Achieved Capacity and RTE Ratio successfully Commissioned by that date; and
- (vi) with effect from that date, the definition of PV Plant Contracted Capacity and BESS Contracted Capacity are amended to the level of PV Plant Achieved Capacity and BESS Achieved Capacity successfully Commissioned by that date.

**5.4.4** If the achievement of the Commercial Operations Date is delayed as a result of one or more Relief Events which are Purchaser Risk Events or No Fault Purchaser Risk Events, then the Commercial Operations Date shall be deemed to have occurred on and from the date (falling on or after Original Scheduled Commercial Operations Date) on which the Seller would have been able to achieve the Commercial Operations Date but for such Purchaser Risk Events or No Fault Purchaser Risk Events (the "**Deemed Commercial Operations Date**").

**5.4.5** If the Deemed Commercial Operations Date has been achieved pursuant to Clause 5.4.4 above and thereafter:

- (i) when tested by the Seller:
  - (a) with respect to the PV Plant, the PV Plant Achieved Capacity is less than the PV Plant Contracted Capacity; or
  - (b) with respect to the BESS, either the BESS Achieved Capacity is less than the BESS Contracted Capacity or the RTE Ratio is less than the RTE Performance Metric,

then the Commercial Operations Date shall be considered not to have been achieved in respect of the PV Plant and/or the BESS (as applicable) (for the purposes of this Clause 5.4.5, the "**Relevant Complex Component**"), and the Relevant Complex Component shall cease to be deemed commissioned and the Purchaser shall have no further obligation to make payments under Clause 5.4.4 above with respect to the Relevant Complex Component and the Seller shall refund to the Purchaser all sums paid by the Purchaser to the Seller pursuant to this Clause 5.4.4 above with respect to the Relevant Complex Component; provided that the Purchaser shall have the right to require the Seller to test the Relevant Complex Component to establish the Commercial Operations Date to the extent the Seller has not conducted such test promptly after the cessation of the Purchaser Risk Events or No Fault Purchaser Risk Events which delayed the achievement of the Commercial Operations Date; or

- (ii) if upon achievement of the Commercial Operations Date in accordance with Schedule 6 (*Commissioning of Complex and Testing*):
  - (a) the BESS shall have been commissioned at less than the BESS Contracted Capacity, then the amount by which Capacity Charge payments made by the Purchaser pursuant to Clause 5.4.4 above exceed the amount the Purchaser would have had to pay if the BESS had been deemed commissioned at the BESS Achieved Capacity when the Commercial Operations Date was actually achieved, together with interest accrued thereon at the Interest Rate, shall be credited against future payments to be made in each of the immediately following monthly

statements until the full amount shall have been credited against future payments;

- (b) the PV Plant shall have been commissioned at less than the PV Plant Contracted Capacity, then the amount by which Energy Charge payments made by the Purchaser pursuant to Clause 5.4.4 above exceed the amount the Purchaser would have had to pay if the PV Plant had been deemed commissioned at the PV Plant Achieved Capacity when the Commercial Operations Date was actually achieved, together with interest accrued thereon at the Interest Rate, shall be credited against future payments to be made in each of the immediately following monthly statements until the full amount shall have been credited against future payments,

provided, however, that sub-paragraphs (i) and (ii) above shall not apply to the extent they would require the Seller to refund or credit the Purchaser any Capacity Charge or Energy Charge payments made to the Seller pursuant to this Clause 5.4.5 in respect of any periods following the demobilisation of the Construction Contractor from the Site in accordance with the terms of the Construction Contract as a result of a Purchaser Risk Events or No Fault Purchaser Risk Events.

## 6 Sale and purchase of Energy

### 6.1 Sale and purchase

#### 6.1.1 <sup>30</sup>Operating Period Capacity and Energy

##### Dispatch Period

- (i) Subject to and in accordance with the terms of this Agreement, on and from the Commercial Operations Date:
  - (a) the Seller shall make Available to the Purchaser the Available Storage Capacity of the BESS during each Dispatch Hour of the Dispatch Period of each day in consideration for the Capacity Charge; and
  - (b) the Seller shall sell and deliver to the Purchaser, and the Purchaser shall purchase and accept from the Seller and pay for, all PV Plant Net Electrical Output from the PV Plant (but only up to the PV Plant Contracted Capacity) at the Energy Charge.

##### Non-Dispatch Period

- (ii) The Seller shall not be obligated to make Available to the Purchaser the Available Storage Capacity of the BESS during any time of a day other than the Dispatch Period.

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<sup>30</sup> **Note:** There is no concept of Early Generation Period Energy, as the PV Plant and the BESS are commissioned together to allow the provision of the energy storage services.

## 6.2 Delivery and title to Energy

- 6.2.1 Delivery of BESS Net Electrical Output shall be completed when electrical energy discharged from the BESS is delivered by the Seller at the Delivery Point at the BESS.
- 6.2.2 Delivery of PV Plant Net Electrical Output shall be completed when electrical energy discharged from the PV Plant is delivered by the Seller at the Delivery Point at the PV Plant.
- 6.2.3 The title to and risk of loss of PV Plant Net Electrical Output and BESS Net Electrical Output shall pass to the Purchaser at the relevant Delivery Point.

## 6.3 Despatch instructions

- 6.3.1 The provisions of Schedule 8 (*Requirements for maintenance, operating limits and despatch procedures*) shall apply in respect of despatch procedures relating to the BESS.
- 6.3.2 The Purchaser agrees that the Purchaser shall dispatch the BESS as requested by the Seller to allow the Seller to undertake the Storage Capacity Test and Roundtrip Efficiency Test in accordance with Schedule 6 (*Commissioning of Complex and Testing*).
- 6.3.3 The Purchaser agrees that in respect of Operating Period Energy, with effect from the Commercial Operations Date, there shall be a standing despatch instruction to deliver all PV Plant Net Electrical Output generated by the PV Plant to the Purchaser.
- 6.3.4 The Purchaser acknowledges that, if it amends the standing despatch instruction in Clause 6.3.3, the Seller shall, if the other requirements in Clause 14 (*Relief Events*) and Clause 15 (*Financial protections*) are satisfied, be entitled to be paid for Deemed Generated Energy in respect of the electrical energy that it would otherwise have delivered in accordance with the provisions of Clause 15.2 (*Deemed Generation*).
- 6.3.5 The Purchaser further acknowledges that there is, accordingly, no marginal cost of despatching the PV Plant and that both Parties are entering into this Agreement in reliance on the expectation that this will inform the prioritisation of the Purchaser's despatching decisions throughout the term of this Agreement.
- 6.3.6 The Seller shall not, without the Purchaser's prior written consent, deliver BESS Net Electrical Output or PV Plant Net Electrical Output at a Delivery Point other than as despatched in accordance with Clause 6.3.1, 6.3.2 and 6.3.3.

## 7 Metering

### 7.1 Metering System

- 7.1.1 The Seller shall, prior to Commissioning, at its own expense, procure, install, test and commission the Metering System at the Delivery Point (both at the PV Plant in relation to the production of PV Plant Net Electrical Output and at the BESS in relation to the BESS Net Electrical Output and Charging Energy (Grid)) in accordance with Schedule 5 (*Metering requirements*).

**7.1.2** From the earlier of the date on which the PIF Transfer Agreement effectively transfers ownership of the Back-Up Meter and the Commercial Operations Date, the Purchaser shall maintain the Back-Up Meter in accordance with Schedule 5 (*Metering requirements*).

**7.1.3** The Seller shall maintain the Main Meter in accordance with Schedule 5 (*Metering requirements*).

## **7.2 Measurements of Net Electrical Output**

BESS Net Electrical Output and PV Plant Net Electrical Output delivered by the Seller to the Purchaser shall be measured in accordance with paragraph 3 (*Reading Metering System*) of Schedule 5 (*Metering requirements*).

## **8 Operation and maintenance**

**8.1** The Seller undertakes to operate and maintain the Complex in accordance with Schedule 8 (*Requirements for maintenance, operating limits and despatch procedures*), any manufacturer guidelines, Prudent Utility Practice and the Technical Limits.

**8.2** The Seller shall at all times comply and shall procure that any third party contractors and subcontractors comply, with the requirements of E&S Laws and the WB Performance Standards (in each case, as further guided by the EHS Guidelines) in relation to the operation and maintenance of the Complex.

**8.3** The annual PV Plant Performance Ratio shall be calculated at the end of each Contract Year on the basis of operating data recorded by the SCADA System for that year and shall be determined in accordance with the formula set out in paragraph 12 (*Calculation of the PV Plant Performance Ratio following the Commercial Operations Date*) of Schedule 6 (*Commissioning of Complex and Testing*).

### **8.4 Annual Storage Capacity Test**

**8.4.1** The BESS Achieved Capacity shall be calculated at the end of each Contract Year following the Commercial Operations Date as set out in Schedule 6 (*Commissioning of Complex and Testing*).

**8.4.2** If the actual BESS Achieved Capacity determined pursuant to a Storage Capacity Test is less than the then current BESS Contracted Capacity, then the actual capacity determined pursuant to such Storage Capacity Test shall become the new BESS Achieved Capacity at the beginning of the day following the completion of the test for all purposes under this Agreement.

**8.5** The Seller shall keep complete and accurate records and all other data reasonable required for the proper administration of this Agreement, including without limitation an accurate and up-to-date operating log at the Site with records and data of changes in operating status, Net Dependable Capacity, BESS Achieved Capacity, Charging Energy (Grid), BESS Net Electrical Output, PV Plant Net Electrical Output, Scheduled Outages, Unscheduled Outages, or other significant events related to the operation of the Complex. The Purchaser shall have the right to review such records and data at all reasonable times and upon reasonable notice. All such records and data shall be maintained for a minimum of [5 years] after the creation of such record or data (or such longer time as may be required under applicable law).

## 8.6 Charging Management

- 8.6.1 The Seller shall have the right to charge the BESS at any time using Charging Energy (Grid) [during the Non-Dispatch Hours].
- 8.6.2 All Charging Energy (Grid) shall be used to either (i) charge the BESS or (ii) for on-site consumption by the BESS.
- 8.6.3 The Seller shall pay the Purchaser for any Net Charging Energy (Grid) taken during any Month (or part-Month) at the regulated tariff for similar purchasers imposed from time to time by the laws of [country]<sup>31</sup>. In accordance with Clause 12.3.6 of this Agreement, the Purchaser shall be entitled to set off any amount due to the Purchaser under this Clause 8.6 from any amount due to be paid to the Seller under this Agreement.
- 8.6.4 The Seller shall be responsible for directly coordinating with the Purchaser and any other relevant authorities in all respects in regard to dispatch of Charging Energy (Grid) and the Grid Code.
- 8.6.5 The use of Charging Energy (Grid) shall be measured by the Metering System in accordance with paragraph 3 (*Reading Metering System*) of Schedule 5 (*Metering requirements*).
- 8.6.6 The Seller shall be required to comply at all times with the BESS Operating Limits in relation to the charging, discharging and all other operation of the BESS.
- 8.6.7 The Purchaser shall not require the Seller to take any action which would, if such action were taken by the Seller, not be in compliance with the BESS Operating Limits.

## 9 Contractors

- 9.1 The Purchaser acknowledges that the Seller may contract with:
  - 9.1.1 a Construction Contractor to design, construct, install and Commission the Complex and Purchaser Interconnection Facilities.
  - 9.1.2 an O&M Contractor to operate and maintain the PV Plant.
  - 9.1.3 a Battery Maintenance Contractor to operate and maintain the BESS.
- 9.2 The appointment of any Construction Contractor, O&M Contractor, Battery Maintenance Contractor or other third party contractor shall not relieve the Seller of any of its obligations or potential liability regarding designing, constructing, insuring, installing or Commissioning, operating or maintaining the Complex and Purchaser Interconnection Facilities (prior to the

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<sup>31</sup> **Note:** Dependent on the prevailing price for power in the relevant jurisdiction, including variable power pricing could be a bankability issue as the price for charging the BESS could exceed the capacity payment, noting the capacity payment is fixed.

transfer of the Purchaser Interconnection Facility to the Purchaser pursuant to this Agreement) or any liability whatsoever resulting from a breach of any term or condition of this Agreement.

- 9.3 The Seller shall promptly notify the Purchaser of the appointment of any Construction Contractor O&M Contractor, Battery Maintenance Contractor, or other third party contractor in accordance with Clause 22 (*Notices*).

## 10 General undertakings of the Parties

### 10.1 Mutual undertakings of the Parties – general

Each Party undertakes that it shall and shall cause its employees, contractors and agents to:

**10.1.1** comply in all material respects with all applicable Laws of [country], the Industry Documents and all Consents; and

**10.1.2** use all reasonable endeavours to hold and maintain in good order and validity, and renew, all Consents required for the performance of its respective obligations under this Agreement and the Related Agreements.

### 10.2 Mutual undertakings of the Parties – access and cross-indemnity

**10.2.1** Each Party shall provide the other Party with access to its property used for the Project:

- (i) at reasonable hours, and upon reasonable notice, for any reasonable purpose in connection with the performance of the obligations imposed on a Party by this Agreement and the Related Agreements, the Laws of [country], the WB Performance Standards (as further guided by the EHS Guidelines) or the Industry Documents; and
- (ii) in the case of the Purchaser, providing the Seller with access to the Purchaser Interconnection Facilities at any time without notice for the purpose of enabling the Seller to prevent or mitigate damage to property or risk of death or personal injury.

**10.2.2** Subject to Clause 10.2.3, each Party (the "**Indemnifying Party**") shall indemnify the other Party (the "**Indemnified Party**") against all costs, claims, liabilities, expenses, suits, actions and proceedings incurred or arising as a result of access to the Indemnified Party's property by the Indemnifying Party (or its personnel or contractors), except to the extent the same are incurred as result of the negligence or Wilful Misconduct of the Indemnified Party (or its personnel or contractors).

**10.2.3** Without prejudice to any liability arising in contract under any provision of this Agreement or of any Related Agreement, the maximum aggregate liability of a Party as an Indemnifying Party under Clause 10.2.2 shall not exceed the Access Indemnity Maximum Amount, provided however that such limit on liability shall not apply in respect of any Wilful Misconduct.

**10.2.4** Save in respect of:

- (i) any liability arising from access, as provided in Clauses 10.2.1 to 10.2.3 (an "**Access Claim**"); or

- (ii) any liability arising in contract under any other provision of this Agreement or of any Related Agreement (a "**Contractual Claim**"),

any liability of one Party (the "**At-Fault Party**") to the other Party (the "**Affected Party**") arising at law shall by operation of the cross-indemnity set out in Clause 10.2.5 below, be borne by the Affected Party (unless such liability arises from Wilful Misconduct).

**10.2.5** Accordingly, and subject to Clause 10.2.6:

- (i) the Seller shall indemnify the Purchaser (and its personnel or contractors) against all costs, liabilities and expenses which the Purchaser (or its personnel or contractors) has incurred or owes to the Seller (or its personnel or contractors) and which arises from any claim, suit, action or proceedings (excluding any Access Claim or Contractual Claim) which the Seller (or its personnel or contractors) has brought or taken against the Purchaser (or its personnel or contractors); and
- (ii) the Purchaser shall indemnify the Seller (and its personnel or contractors) against all costs, liabilities and expenses which the Seller (or its personnel or contractors) has incurred or owes to the Purchaser (or its personnel or contractors) and which arises from any claim, suit, action or proceedings (excluding any Access Claim or Contractual Claim) which the Purchaser (or its personnel or contractors) has brought or taken against the Seller (or its personnel or contractors).

**10.2.6** The provisions in Clauses 10.2.4 and 10.2.5 shall not apply where the claim, suit, action or proceedings arises from the Wilful Misconduct of the At-Fault Party.

### 10.3 Undertakings of the Seller

**10.3.1** The Seller shall not:

- (i) stop or suspend deliveries of electrical energy to the Delivery Point; or
- (ii) sell or deliver PV Plant Net Electrical Output or BESS Net Electrical Output to any person other than the Purchaser,

except where the Purchaser has failed to make a payment within 60 days of the relevant Due Date and in accordance with Clause 17.10 (*Suspension and sales to third parties*)<sup>32</sup>.

**10.3.2** The Seller shall, no later than the date falling one year prior to the expiry of this Agreement (as such date may have been extended pursuant to Clause 3.2 (*Extension of the term*)), procure an unconditional and irrevocable on-demand letter of credit in favour of the Government from an Acceptable Bank and for an amount equal to US Dollars 100,000 per MW<sub>AC</sub> of BESS Contracted Capacity, in a form satisfactory to the Government, acting reasonably (the "**End-of-Term Bond**"). The expiry date of the End-of-Term Bond shall be no earlier than the date falling one year after the expected date of expiry of this Agreement.

**10.3.3** Without prejudice to the Seller's obligations under Clause 10.3.2, if following the issuance of the End-of-Term Bond, the Parties agree to extend the term of this

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<sup>32</sup> **Note:** Assuming the project is in a closed power market, it is not clear how such power would be sold to a third party, however the flexibility is retained regardless.

Agreement pursuant to Clause 3.2.3 and the amended expiry date of this Agreement falls more than one year in advance, the Purchaser shall, where requested to do so by the Seller, procure that the Government returns the End-of-Term Bond to the Seller.

#### 10.4 Insurance undertakings

**10.4.1** The Seller shall, at its own cost and expense, take out and maintain:

- (i) on and from the Effective Date until the Commercial Operations Date, such construction phase insurances as are set out in Schedule 12 (*Insurances*);
- (ii) on and from the Commercial Operations Date, such operating phase insurances as are set out in Schedule 12 (*Insurances*);
- (iii) [on and from the Effective Date, such endorsements as are set out in Schedule 12 (*Insurances*); and]<sup>33</sup>
- (iv) such other insurance cover as is customary, desirable and consistent with Prudent Utility Practice and the Laws of [country] in respect of the Complex or the Seller, its contractors, subcontractors as well as its or their respective agents and/or employees,

provided that, such insurances are placed with insurers or reinsurers that have a long term credit rating equal to or greater than A- (as rated by Standard & Poor's Rating Services) or A3 (as rated by Moody's Investors Service Inc.) or comparable ratings (as rated by Fitch or A.M. Best).<sup>34</sup>

**10.4.2** Subject to complying with the requirements of Clause 10.4.3, the Seller shall not be in breach of its obligations to take out and maintain insurances in accordance with Clause 10.4.1, where:

- (i) any insurance (or a term or condition of any insurance) set out in Schedule 12 (*Insurances*) is not available to the Seller in the international insurance market; or
- (ii) any insurance (or a term or condition of any insurance) set out in Schedule 12 (*Insurances*) is not available on the international insurance market on commercially reasonable terms (including the insurance premium payable), such that it would be reasonable in all the circumstances for the Seller, acting in accordance with Prudent Utility Practice, not to take out or maintain that insurance,

unless the unavailability of the insurance (or a term or condition of that insurance) predominantly results from an act or omission of the Seller.<sup>35</sup>

**10.4.3** Where the Seller becomes aware that any insurance (or a term or condition of any insurance) is not available, it shall:

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<sup>33</sup> **Note:** To be confirmed by Insurance Adviser.

<sup>34</sup> **Note:** Team to confirm availability of insurance at such ratings, including any local insurance laws that may restrict ability to achieve full cover through offshore insurance or reinsurance.

<sup>35</sup> **Note:** We have provided this Clause 10.4.2 recognizing that certain risks may be uninsurable. On the other hand, we do not want to invite frivolous claims by Sellers that a certain kind of coverage is not available, when in fact it is available. This is a commercial matter to be discussed in the context of the local insurance market for each project. Consider as well the reference to international based on applicable insurance or reinsurance restrictions

- (i) promptly (and in any event within seven days) notify the Purchaser of the same and shall consult with the Purchaser as to the steps it will take in order to seek to mitigate such unavailability;
- (ii) upon the reasonable request of the Purchaser, approach the insurance market at reasonable intervals, but not less frequently than once a year, to determine whether the relevant circumstances have ceased to apply and shall keep the Purchaser fully informed of such approaches.

**10.4.4** The Seller shall, upon the request of the Purchaser, provide to the Purchaser from time to time copies of insurance policies effecting the insurances required to be taken out and maintained by the Seller under Clause 10.4.1. The Purchaser may request (no more frequently than annually) the Seller to provide proof that all relevant premiums have been paid and that the relevant policy or policies remain in existence.

**10.4.5** The Seller shall apply all proceeds of any insurance claim made due to loss or damage to the Complex or (prior to the Commercial Operations Date) the Purchaser Interconnection Facilities (other than claims under any loss of revenue policies) towards reinstatement, reconstruction, replacement, repair or renewal of such loss or damage, unless:

- (i) the Purchaser, acting reasonably, otherwise agrees; or
- (ii) a Threshold Loss Event occurs.

**10.4.6** The Seller shall be responsible for the payment of all deductibles in respect of the insurances provided pursuant to Clause 10.4.1.

## 10.5 Tax undertakings

Without prejudice to the Seller's rights under Clause 15 (*Financial protections*), each Party shall be responsible for payment of all Taxes payable by that Party.

## 10.6 Auxiliary Power

During the term of this Agreement, the Purchaser shall provide auxiliary power to the Seller as may be required by the Seller to operate the Complex during periods of insufficient or no self-generation by the PV Plant. The Seller shall pay the Purchaser for such power at the regulated tariff for similar purchasers imposed from time to time by the laws of [country], or absent a rate imposed by the laws of [country], at the Energy Charge rate. In accordance with Clause 12.3.6 of this Agreement, the Purchaser shall be entitled to set off any amount due to the Purchaser under this Clause 10.6 from any amount due to be paid to the Seller under this Agreement.

## 10.7 Environmental and Social Management System

**10.7.1** The Seller shall develop a set of policies and procedures (either in the form of a standalone system or of a system embedded in an overall integrated management system or quality assurance management system such as ISO 14001 or similar) in time to comply with its obligations under Clauses 10.7.2 and 10.7.3 below and having the following elements:

- (i) overarching policy stating the principles on which the Seller shall identify and manage environmental and social risks and impacts for the duration of the Project, which principles shall include, at a minimum, the WB Performance Standards and Prudent Utility Practice (in each case, as further guided by the EHS Guidelines);
- (ii) a plan to develop the Seller's organizational capacity and competency to implement, maintain and as required, strengthen, the ESMS, including the definition of relevant roles and responsibilities and their assignment to staff with appropriate skills and expertise;
- (iii) management programs relating to each of the subject areas identified in Schedule 15 (*Management Programs for Inclusion in ESMS*), which shall in each case include detailed timelines for implementation of specific mitigation and performance improvement measures; and
- (iv) a stakeholder engagement mechanism to engage with and receive and address grievances from affected communities.

**10.7.2** Development of the ESMS and management programs relating to on the ground construction or pre-construction activities shall be completed no later than 30 days prior to the earlier of possession of the Site and commencement of such activities.

**10.7.3** ESMS requirements relating to activities other than those described in Clause 10.7.2 above shall be completed no later than 30 days prior to the date on which the Seller reasonably believes such plans/procedures are required to effectively mitigate the relevant environmental or social risks or impacts of such activities.

## 11 Representations and warranties of the Parties

Each Party represents and warrants on the date of this Agreement that:

- (i) it has full power and authority to enter into and perform its obligations under this Agreement and any Related Agreement to which it is a party.
- (ii) the execution, delivery and performance of this Agreement and any Related Agreement to which it is a party have been duly authorised by all requisite action, and does not violate the Laws of [country] or the laws of the jurisdiction in which it is incorporated in case of execution and delivery by such Party, if incorporated outside of [country], or contravene any provision of, or constitute a default under, any other laws, agreement or instrument to which it is a party or by which its property may be bound;
- (iii) it is not in default under any agreement or instrument to which it is a party or by which it properly may be bound, in any manner which may have a material adverse effect on:
  - (a) its ability to perform its obligations hereunder;
  - (b) the validity or enforceability of this Agreement and any Related Agreement; or
  - (c) its financial condition or operations;
- (iv) this Agreement and any Related Agreement to which it is a party shall, when executed, constitute its legal, valid and binding obligations, enforceable in accordance with the

terms hereof except where the enforceability may be limited by applicable laws affecting creditors' rights generally; and

- (v) there are no actions, suits or proceedings pending or, to its knowledge, threatened, against or affecting it before any Governmental Authority or any foreign court or administrative body or arbitrator that might materially adversely affect its ability to meet and carry out its obligations under this Agreement and under any Related Agreement to which it is a party.

## 12 Compensation, payment and billing

### 12.1 Billing

**12.1.1** The Purchaser shall pay to the Seller an amount in respect of the aggregate of (i) the PV Plant Metered Energy and (ii) the Deemed Generated Energy in any Month, calculated as a product of:

- (i) The applicable Energy Charge; and
- (ii) the sum of the (i) the PV Plant Metered Energy and (ii) the Deemed Generated Energy for the period during that Month during which the Energy Charge applied in kWh.

and determined in accordance with this Agreement, including Schedule 9 (*Determination of payments*) (such amount being the "**Monthly Energy Payment Amount**").

**12.1.2** The Purchaser shall pay to the Seller an amount in respect of the aggregate of Available Storage Capacity (or, where applicable, Deemed Storage Capacity) in any Month, calculated as a product of:

- (i) the Capacity Charge; and
- (ii) the sum of the aggregate Available Storage Capacity (or where applicable, Deemed Storage Capacity) during each Dispatch Hour of that Month,

and determined in accordance with this Agreement, including Schedule 9 (*Determination of payments*) (such amount being the "**Monthly Capacity Payment Amount**").

### 12.2 Monthly statement

**12.2.1** On or after the first day of each Month, the Seller shall submit a monthly statement to the Purchaser stated in US Dollars for the following:

- (i) the Monthly Capacity Payment Amount and Monthly Energy Payment Amount due in respect of the previous Month (or part-Month); plus
- (ii) any value added tax chargeable in respect of making Available the Net Dependable Capacity, the supply of the PV Plant Net Electrical Output or other services provided by the Seller to the Purchaser during the previous Month (or part-Month); plus
- (iii) any interest (calculated in accordance with Clause 12.4 (*Late payments*)) payable on an amount invoiced previously, but not paid by the relevant Due Date (whether by the Purchaser or by the Government on its behalf), such overdue

interest calculated at the Interest Rate from (and excluding) the date such payment was due to (and including) the earlier of:

- (a) the date such payment was withdrawn by the Seller from any Escrow Account or received by the Seller following a claim under a Letter of Credit or Guaranteed Letter of Credit in accordance with Clause 13.6 (*Use of funds*); and
- (b) the last day of the previous Month; plus or less
- (iv) any adjustment amounts payable as a result of any inaccuracies in the Metering System and any interest thereon pursuant to paragraph 3.5 of Schedule 5 (*Metering requirements*); plus
- (v) any amounts owing to the Seller as a result of exchange rate fluctuations pursuant to Clause 12.3.5; plus
- (vi) 50 per cent. of the costs, fees and expenses paid to the Independent Engineer in the previous Month; plus
- (vii) any costs or fees paid by the Seller to any Escrow Agent or LC Issuing Bank in accordance with paragraph (ii) of Clause 13.2.2 (*Provisions relating to any Escrow Account*) or Clause 13.4.4 (*Provisions relating to Guaranteed Letters of Credit and Qualifying Credit Enhancement*) in the previous Month or any costs or expenses incurred by the Seller in establishing and maintaining a collateral account pursuant to paragraph (iii) of Clause 13.5.1 (*No Qualifying Credit Enhancement – All Liquidity Support Inadequacy Events*); plus
- (viii) other than where the Purchaser has already made a payment in accordance with Clause 12.5.6, any disputed amounts withheld by the Purchaser but determined to be owing to the Seller pursuant to Clause 12.5.6 and any interest thereon; plus
- (ix) any one-off amount or instalment payable as a consequence of any Increased Costs as agreed between the Parties pursuant to Clause 15.3.3 or determined by an Expert pursuant to Clause 15.3.5; less
- (x) other than where the Seller has already made a payment in accordance with Clause 12.5.5, any disputed amounts previously paid by the Purchaser but determined not to be owed to the Seller pursuant to Clause 12.5.3 and any interest thereon; less
- (xi) any amounts received from third parties in respect of the previous Month where the Seller has exercised its right to make sales to third parties in accordance with paragraph (ii) of Clause 17.10.1 (*Suspension and sales to third parties*); less
- (xii) the amounts (if any) due from the Seller to the Purchaser from time to time in respect of the previous Month, including any payments due in respect of the Net Charging Energy (Grid) for the previous Month (or part-Month) in accordance with Clause 8.6.3; less
- (xiii) any amounts which the Seller is required to reimburse to the Purchaser in respect of Insurance Proceeds, liquidated damages or other compensation received pursuant to Clause 15.8.2; less

- (xiv) any amounts due from the Seller to the Purchaser in respect of Clause 10.6; plus or less
- (xv) any other amounts then due and payable by the Seller to the Purchaser or by the Purchaser to the Seller under this Agreement.

**12.2.2** The monthly statement shall contain reasonably detailed calculations of the amounts payable under it, together with such further supporting documentation and information as the Parties may agree.

### 12.3 Invoicing, billing and payment

**12.3.1** If the monthly statement delivered in accordance with Clause 12.2 (*Monthly statement*) shows that an amount is due from the Purchaser to the Seller, the Seller shall, together with the delivery of the monthly statement, submit an invoice for that amount to the Purchaser.

**12.3.2** If the monthly statement delivered in accordance with Clause 12.2 (*Monthly statement*) shows that an amount is due from the Seller to the Purchaser, then the Purchaser may submit an invoice for that amount to the Seller.

**12.3.3** The relevant Party shall pay to the other Party the amount shown in the invoice as due on or before the Due Date.

**12.3.4** Any invoice delivered pursuant to this Clause 12 (*Compensation, payment and billing*) shall be paid in the [local currency] equivalent of the amount payable in US Dollars (based on the Buy Rate).

**12.3.5** The Purchaser shall reimburse the Seller for any loss its suffers as a result of any discrepancy between (i) the Buy Rate and (ii) the rate or rates of exchange available to the Seller at the time that it converts [local currency] into US Dollars in order to transfer such amounts offshore, provided that the Seller has been and is continuing to diligently pursue effecting the currency conversion.

**12.3.6** Subject to Clause 12.5.6, each Party shall have the right to set off against any amounts payable by it as set out in the monthly statement to the other Party hereunder any and all amounts then due and payable to it by the other Party hereunder. Such rights of set off shall relate only to amounts payable by the Parties under this Agreement and only to amounts that are then due and payable to and by a Party and not to any amounts which have been disputed by the Party against whom such amounts are claimed in accordance with the terms of this Agreement.

**12.3.7** The Purchaser's obligation to pay any amount under this Agreement shall remain in full force and effect except to the extent that the Purchaser's obligation to the Seller has been fully and irrevocably discharged by:

- (i) the Government (whether or not pursuant to the terms of the Government Support Agreement); or
- (ii) a withdrawal by the Seller from any Escrow Account or receipt of funds following a claim by the Seller under a Letter of Credit or Guaranteed Letter of Credit in accordance with Clause 13.6 (*Use of funds*) of the due amount (and any interest on any overdue sum) in full.

12.4 **Late payments**

Late payments shall bear interest at the Interest Rate plus two per cent. per annum.

12.5 **Disputed payments<sup>36</sup>**

- 12.5.1** If the Purchaser disputes a monthly statement (in whole or in part) in good faith, the Purchaser shall notify the Seller in writing of any disagreement with or exception to the calculation, including details of the monthly statement concerned, the amount in dispute and the basis for disputing the amount. A failure of the Purchaser to dispute the monthly statement within 60 days of receipt shall constitute a waiver by the Purchaser of its right to dispute such monthly statement.
- 12.5.2** Where the Purchaser disputes a monthly statement pursuant to this Clause 12.5 (*Disputed payments*), the Parties shall confer within seven days thereafter to resolve in good faith any such exceptions and disputes.
- 12.5.3** On the expiry of the seven-day period in Clause 12.5.2, the Purchaser shall, subject to Clause 21.2 (*Amicable resolution*), be entitled to submit an outstanding Dispute to an Expert in accordance with Clause 21.3 (*Expert determination*), provided however that any determination as to the amount of Deemed Generated Energy that would have been generated by the PV Plant shall be determined by the Independent Engineer in accordance with Schedule 9 (*Determination of payments*).
- 12.5.4** Subject to Clause 12.5.6, where a Dispute is outstanding on the relevant Due Date in respect of an invoice submitted by the Seller, the full amount of the invoice shall be paid by the Purchaser to the Seller on that Due Date without any set-off or withholding.
- 12.5.5** Upon settlement or determination of a Dispute, any amount paid but agreed or determined not to be owed to the Seller shall be repaid by the Seller within 14 days, together with interest thereon from but excluding the date initially paid to and including the date repaid at the Interest Rate. If the Seller does not make payment within 14 days, it shall include such amount in the next monthly statement in accordance with Clause 12.2 (*Monthly statement*).
- 12.5.6** If, during any two-year period, two or more Disputes in respect of monthly statements are referred by the Purchaser to an Expert and are resolved in favour of the Purchaser, the Purchaser shall thereafter, and until such time (if any) as it loses its entitlement pursuant to Clause 12.5.7, be entitled to withhold payment of any disputed portion of any subsequent invoices in respect of which a Dispute has been submitted within 21 days of receipt of the relevant monthly statement and invoice submitted by the Seller in accordance with this Clause 12 (*Compensation, payment and billing*), until settlement or determination of the Dispute. If any withheld amount is determined to be owed to the Seller, such amount shall be paid by the Purchaser within 14 days, together with interest thereon from but excluding the Due Date to and including the date repaid at the Interest Rate. If the Purchaser does not make payment within 14 days, the Seller shall include such amount in the next monthly statement in accordance with Clause 12.2.1.

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<sup>36</sup> **Note:** Consult with the IBRD / IDA team on a case by case basis to confirm whether the IBRD / IDA guarantee can apply to disputed amounts for that specific transaction.

**12.5.7** The Purchaser shall lose its entitlement to withhold payment of a disputed portion of an invoice pursuant to Clause 12.5.6 if it refers a Dispute in respect of a monthly statement to an Expert and such Dispute is resolved in favour of the Seller, whereupon Clause 12.5.4 shall again apply.

**13 Liquidity support mechanism**

**13.1 Establishment and Required Liquidity Support Amount**

**13.1.1** No later than the Effective Date, the Purchaser shall ensure that all documentation in respect of the permitted liquidity support mechanism has been agreed, signed and is effective. For the purpose of this clause, "effective" shall mean all conditions for draw on the permitted liquidity support instrument shall have been satisfied other than the commencement of the Liquidity Support Period.

**13.1.2** At all times during the Liquidity Support Period, the Purchaser shall:

- (i) ensure that a permitted liquidity support mechanism remains effective and callable in accordance with the terms set out therein and, in respect of any Guarantee Letter of Credit, in the documentation relating to the Qualifying Credit Enhancement (and in the event that a Qualifying Credit Enhancement is specified as being required pursuant to Schedule 1, Part I, Section E, then, subject to Clause 13.4.3, the Purchaser shall be required to procure and maintain a Qualifying Credit Enhancement for the time period set out therein); and
- (ii) ensure that the Liquidity Support Balance is no less than the Required Liquidity Support Amount.

The Seller shall promptly notify the Purchaser and the Government of any withdrawal from any Escrow Account or claim under any Letter of Credit or Guaranteed Letter of Credit pursuant to Clause 13.6 (*Use of funds*) (or may notify the Purchaser and the Government if it otherwise becomes aware that the Liquidity Support Balance is less than the Required Liquidity Support Amount).

**13.1.3** Other than where caused by a Liquidity Support Inadequacy Event (in which case the provisions of Clause 13.5 (*Liquidity Support Inadequacy Events*) shall apply), if at any time during the Liquidity Support Period, the Liquidity Support Balance is below the Required Liquidity Support Amount, the Purchaser shall take such steps as are necessary (whether by making further deposits into any Escrow Account or procuring that the undrawn portion of any Letter of Credit or the amount available for draws under any Guaranteed Letter of Credit is increased or that any Letter of Credit or Guaranteed Letter of Credit is replaced) to increase the Liquidity Support Balance to the Required Liquidity Support Amount as soon as reasonably practicable and in any event within 14 days following receipt by the Purchaser of any notice under Clause 13.1.2.

**13.1.4** Where the Purchaser fails to comply with its obligations under Clause 13.1.3, the Purchaser shall have a further 30 days to remedy such default (being, in total, 44 days from receipt by it of a notice under Clause 13.1.1). The Seller may, but shall not be obliged to, notify the Purchaser and the Government that it requires such default to be remedied.

- 13.1.5** Subject to Clauses 13.1.6, 13.5.2 and 13.5.3 and provided that the Purchaser complies with its obligations under Clause 13.1.2, the Purchaser may maintain the Liquidity Support Balance by funding an Escrow Account and/or by procuring a Letter of Credit or Guaranteed Letter of Credit.
- 13.1.6** If the Purchaser has procured a Qualifying Credit Enhancement in support of its obligations under this Clause 13 (*Liquidity support mechanism*) (including where it is required to do so, as indicated at Schedule 1, Part I, Section E), the Purchaser shall not change from an Escrow Account to a Guaranteed Letter of Credit or vice versa<sup>37</sup> under this Clause 13 (*Liquidity support mechanism*) without (i) obtaining the prior written confirmation of the guarantor under the Qualifying Credit Enhancement (in terms reasonably satisfactory to the Seller) that the Qualifying Credit Enhancement remains effective to provide the same or equivalent support and (ii) any necessary changes to documentation having been executed, such documents being in full force and effect.

## 13.2 Provisions relating to any Escrow Account

- 13.2.1** Subject to the terms of Clause 13.1.2, if the Purchaser elects to meet its liquidity support obligations under this Agreement by means of establishing an Escrow Account or if it is otherwise required to do so as a result of a Liquidity Support Inadequacy Event, then the Purchaser shall establish an Escrow Account and once established, shall maintain an Escrow Account for the remainder of the Liquidity Support Period. If at any time during a Liquidity Support Inadequacy Event, no Escrow Account is available, the Purchaser may use a bank account of the Seller, held by the Seller in accordance with the Financing Documents, and designated for such use by the Seller to the Purchaser in writing prior to any transfers by the Purchaser into such account as permitted under this Clause 13.2.1 being made, to be used in place of an Escrow Account (a "**Borrower Account**") and if this is done, references in this Clause 13 (*Liquidity support mechanism*) to an Escrow Account shall be deemed to include such Borrower Account, as applicable. The Parties agree that any Liquidity Support Balance deposited in a Borrower Account shall be utilised in a manner that is equivalent to how such funds would be utilised if on deposit in an Escrow Account. If a Borrower Account is to be utilised, the Purchaser shall continue to take such actions as required to establish an Escrow Account as soon as is reasonably practicable. Once the Purchaser has established an Escrow Account with an Escrow Agent that is an Acceptable Bank, the Seller shall promptly transfer any Liquidity Support Balance being held in a Borrower Account to the Escrow Account (or to the Purchaser or its nominee, where permitted pursuant to paragraph (iii) of Clause 13.2.2 (*Provisions relating to any Escrow Account*) or Clause 13.3.2). The Purchaser shall reimburse the Seller for all costs and expenses reasonably incurred by the Seller in establishing and maintaining such Borrower Account during the time of the Liquidity Support Inadequacy Event or until an Escrow Account is able to be established, as applicable.

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<sup>37</sup> **Note:** Qualifying Credit Enhancement provided by IDA or IBRD is only available to support a Letter of Credit (but not to support an Escrow), and thus, if IDA or IBRD provides the Qualifying Credit Enhancement, no switch from a Guaranteed Letter of Credit to an Escrow Account will be possible. Separately, if an Escrow Account is used as payment security, a switch to a Qualifying Credit Enhancement provided by IDA or IBRD (to support a new Guaranteed Letter of Credit) is not possible as IDA or IBRD are not able to support the establishment of a Qualifying Credit Enhancement at a later date. This does not exclude switching to a Guaranteed Letter of Credit supported by a different Qualifying Credit Enhancement provider at a later date.

**13.2.2** Where the Purchaser has established an Escrow Account in accordance with this Clause 13 (*Liquidity support mechanism*):

- (i) interest accruing from time to time on the balance in the Escrow Account shall be credited to the Escrow Account;
- (ii) the Seller may elect, by notice to the Purchaser, to pay the Escrow Agent's costs and fees in respect of its duties under or in connection with this Agreement and the maintenance of the Escrow Account, as such costs and fees may be agreed between the Purchaser and the Escrow Agent from time to time. The Purchaser shall reimburse the Seller for such costs and fees in accordance with Clause 12 (*Compensation, payment and billing*); and
- (iii) where the Liquidity Support Balance is greater than the Required Liquidity Support Amount and there are funds in the Escrow Account, then the Seller shall notify the Purchaser. If the Purchaser so requests, then provided that no Related-Party Default Event has occurred and is continuing, the Seller shall instruct the Escrow Agent to pay an amount equal to the excess to the Purchaser or its nominee within 14 days of such request.

### 13.3 Provisions relating to Letter(s) of Credit

**13.3.1** Where the Purchaser has procured a Letter of Credit in favour of the Seller and that Letter of Credit is due to expire before the end of the Liquidity Support Period, it shall procure that the LC Issuing Bank notifies the Seller and the Government of any forthcoming expiry of that Letter of Credit at least six months prior to its expiry.

**13.3.2** By no later than 14 days prior to the expiry of a Letter of Credit, the Purchaser shall:

- (i) replace the existing Letter of Credit with a new Letter of Credit; and/or
- (ii) increase the balance in any Escrow Account,

in each case, in an aggregate amount necessary to ensure that, upon the expiry of the existing Letter of Credit, the Purchaser will be in compliance with its obligations under Clause 13.1.1, failing which the Seller may immediately call on the existing Letter of Credit and require that all proceeds are deposited by the LC Issuing Bank into the Escrow Account. If the Purchaser subsequently procures a replacement Letter of Credit, and subject (A) to the Seller's right to have recourse to amounts in any Escrow Account in accordance with this Agreement, and (B) to the requirement that the Liquidity Support Balance is no less than the Required Liquidity Support Amount, the proceeds deposited in any Escrow Account shall be repaid to the Purchaser or its nominee immediately upon the Purchaser procuring the replacement of the Letter of Credit.

### 13.4 Provisions relating to Guaranteed Letters of Credit and Qualifying Credit Enhancement<sup>38</sup>

**13.4.1** Where the Purchaser has procured a Qualifying Credit Enhancement in favour of the Seller, and such Qualifying Credit Enhancement is due to expire before the

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<sup>38</sup> **Note to Team:** To avoid replacement risk, there is a strong preference for the term of any Guaranteed Letter of Credit (or other Qualifying Credit Enhancement) to be at least as long as the required QCE term. If it is not, then Clause 13.4.2

end of the Liquidity Support Period, it shall (and where there is a Guaranteed Letter of Credit shall also procure that the LC Issuing Bank shall) notify the Seller, the Government and the guarantor under the Qualifying Credit Enhancement at least 18 months prior to the expiry date.

**13.4.2** In the event that such expiration would occur prior to the end of the term of the Qualifying Credit Enhancement as specified at Schedule 1, Part 1, Section E, the Purchaser shall use its reasonable endeavours to procure that the guarantor under the Qualifying Credit Enhancement and (where applicable) the LC Issuing Bank execute all necessary documentation (which documentation shall be in full force and effect) and shall itself execute all such documentation so that the Guaranteed Letter of Credit or other relevant instruments are extended or replaced, for a term not less than the remaining term of the Qualifying Credit Enhancement as specified at Schedule 1, Part 1, Section E, no later than 30 days prior to the expiry date of the Guaranteed Letter of Credit and/or documentation relating to the Qualifying Credit Enhancement (as applicable).

**13.4.3** Where there is a Guaranteed Letter of Credit and the Purchaser has been unable to procure an extension or replacement in accordance with Clause 13.4.2 or where the Guaranteed Letter of Credit or Qualifying Credit Enhancement are stated to expire at the end of the term of the Qualifying Credit Enhancement as specified at Schedule 1, Part 1, Section E but prior to the end of the Liquidity Support Period, the Purchaser shall by no later than 14 days prior to the expiry of the Guaranteed Letter of Credit or Qualifying Credit Enhancement:

- (i) procure a Letter of Credit in favour of the Seller; and/or
- (ii) make deposits into an Escrow Account,

in each case, in an aggregate amount necessary to ensure that, upon the expiry of the Guaranteed Letter of Credit or Qualifying Credit Enhancement, the Purchaser will be in compliance with its obligations under Clause 13.1.2.

**13.4.4** The Seller shall pay the LC Issuing Bank's costs and fees in respect of the Guaranteed Letter of Credit, as such costs and fees may be agreed between the Purchaser and the LC Issuing Bank from time to time. The Purchaser shall reimburse the Seller for any such costs and fees paid in accordance with Clause 12 (*Compensation, payment and billing*).

## 13.5 Liquidity Support Inadequacy Events

### 13.5.1 No Qualifying Credit Enhancement – All Liquidity Support Inadequacy Events

- (i) In circumstances where the Purchaser has not procured a Qualifying Credit Enhancement, if any event or circumstance within paragraph (i), (ii) or (iii) of the definition of Liquidity Support Inadequacy Event occurs, including any events or circumstances that make it illegal or unlawful for an LC Issuing Bank or Escrow Agent (whether as a result of Sanctions or otherwise) to advance funds under a Letter of Credit or otherwise to perform any of its obligations, the Purchaser shall

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addresses the need to have it renewed or replaced. In addition, where the required QCE term is shorter than the Liquidity Support Period (which is likely, especially if the QCE is only available through the term of the financing), Clause 13.4.3 addresses the need to replace the Guaranteed Letter of Credit (or other Qualifying Credit Enhancement) with a non-guaranteed support mechanism.

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promptly, and in any event within 30 days of becoming aware of or being notified by the Seller of the existence of such event or circumstances (any such notice from the Seller shall be sent to the Government as well), procure that a new or replacement Letter of Credit is issued or that an Escrow Account is funded such that the Liquidity Support Balance is no less than the Required Liquidity Support Amount.

- (ii) Where the Liquidity Support Inadequacy Event occurs as a result of an LC Issuing Bank ceasing to be an Acceptable Bank, if upon the expiry of the 30 day period in paragraph (i) above the Purchaser has not complied with its obligations set out thereunder, the Seller may immediately call on the existing Letter of Credit and require that all proceeds are deposited by the LC Issuing Bank into the Escrow Account. If the Purchaser subsequently procures a replacement Letter of Credit, and subject (A) to the Seller's right to have recourse to amounts in any Escrow Account in accordance with this Agreement, and (B) to the requirement that the Liquidity Support Balance is no less than the Required Liquidity Support Amount, the proceeds deposited in any Escrow Account shall be repaid to the Purchaser immediately upon the Purchaser procuring the replacement of the Letter of Credit.
- (iii) Where the Liquidity Support Inadequacy Event occurs as a result of any Escrow Agent ceasing to be an Acceptable Bank, if upon the expiry of the 30 day period in paragraph (i) above the Purchaser has not complied with its obligations set out thereunder, the Seller may immediately withdraw amounts from the Escrow Account and hold the proceeds as cash security in a Borrower Account. The Seller shall have the right to have recourse to the cash security in the Borrower Account in the same way that it would be entitled to have recourse to any Escrow Account or a Letter of Credit in accordance with this Agreement. Where the Seller has recourse to the cash security in the Borrower Account, the Purchaser shall be required to make further deposits into the Borrower Account in the same way that it would be required to make deposits into the Escrow Account in accordance with this Agreement.

**13.5.2 Qualifying Credit Enhancement - Liquidity Support Inadequacy Event caused by Seller**

In circumstances where the Purchaser is required to procure a Qualifying Credit Enhancement, if any event or circumstance within paragraph (ii) or (iv) of the definition of Liquidity Support Inadequacy Event occurs for reasons attributable to the Seller and which are not a result of a Purchaser Risk Event or a No Fault Purchaser Risk Event, the Purchaser shall use reasonable endeavours to procure (and the Seller shall provide its reasonable co-operation to the Purchaser in procuring) that any suspension notice as referred to in paragraph (iv) of the definition of Liquidity Support Inadequacy Event is lifted or a replacement Qualifying Credit Enhancement and all related documentation (and, where required, a replacement Guaranteed Letter of Credit or Escrow Account) is executed or established and is in full force and effect as soon as reasonably practicable, in each case which comply with the liquidity support requirements under this Clause 13 (*Liquidity support mechanism*).

**13.5.3 Qualifying Credit Enhancement - Liquidity Support Inadequacy Event attributable to LC Issuing Bank or Escrow Agent**

In circumstances where the Purchaser is required to procure a Qualifying Credit Enhancement, if any event or circumstance within paragraph (ii), (iii) or (iv) of the definition of Liquidity Support Inadequacy Event occurs, including any events or circumstances that make it illegal or unlawful for an LC Issuing Bank or Escrow Agent (whether as a result of Sanctions or otherwise) to advance funds under a Guaranteed Letter of Credit or otherwise to perform any of its obligations, for reasons attributable to an LC Issuing Bank or Escrow Agent, the Purchaser shall diligently pursue, and in any event within 90 days (the "**Replacement Period**") of becoming aware of or being notified by the Seller of the existence of such event or circumstances (any such notice from the Seller shall be sent to the Government as well), procure (and the Seller shall provide its reasonable co-operation to the Purchaser in procuring) a replacement Qualifying Credit Enhancement and all related documentation (or, where required, a replacement Guaranteed Letter of Credit or Escrow Account) is executed or established and is in full force and effect, in each case which comply with the liquidity support requirements under this Clause 13 (*Liquidity support mechanism*); provided, however, that the Replacement Period shall be extended from 90 days to up to 135 days for so long as: (A) the Guaranteed Letter of Credit or Escrow Account, as applicable, is, at all times during the Replacement Period, able to be drawn and (B) the Purchaser is diligently pursuing a replacement Guaranteed Letter of Credit, Escrow Account or other Qualifying Credit Enhancement or an end to any relevant suspension, as applicable.

**13.5.4 Qualifying Credit Enhancement - Liquidity Support Inadequacy Event caused by Purchaser**

In circumstances where the Purchaser has procured a Qualifying Credit Enhancement, if any event or circumstance within paragraph (ii) or (iv) of the definition of Liquidity Support Inadequacy Event occurs for reasons attributable to the Purchaser or any Government Related Party (including as a result of a Purchaser Risk Event or No Fault Purchaser Risk Event), the Purchaser shall:

- (i) promptly, and in any event within 30 days of issuance by the guarantor under the Qualifying Credit Enhancement of any suspension or termination notice as referred to in paragraph (iv) of the definition of Liquidity Support Inadequacy Event, procure that a Letter of Credit is issued or that an Escrow Account is funded such that the Liquidity Support Balance is no less than the Required Liquidity Support Amount. Such alternative liquidity support shall remain in place until such time as any suspension notice has been lifted or replacement documentation has been executed and is in full force and effect pursuant to paragraph (ii) below; and
- (ii) use best endeavours to procure that promptly, and in any event procure that within 90 days of issuance by the guarantor under the Qualifying Credit Enhancement of any suspension or termination notice as referred to in paragraph (iv) of the definition of Liquidity Support Inadequacy Event, any suspension notice is lifted or a replacement Qualifying Credit Enhancement and all related documentation (and, where required, a replacement Guaranteed Letter of Credit or Escrow Account) is executed or established and is in full force and effect, in each case which comply with the liquidity support requirements under this Clause 13 (*Liquidity support mechanism*).

### 13.6 Use of funds

**13.6.1** If at any time during the Liquidity Support Period the Purchaser fails to make a payment to the Seller by the relevant Due Date, save where the same is a permitted withholding under Clause 12.5.6, then subject to the Seller having provided fifteen (15) days advance notice to the Purchaser (such notice may also serve as a notice for purposes of Clause 17.3.1) and the guarantor under any Qualifying Credit Enhancement, the Seller shall be entitled to:

- (i) withdraw an amount equal to such payment and any default interest accruing thereon in accordance with this Agreement from any Escrow Account; and/or
- (ii) make a claim under any Letter of Credit or Guaranteed Letter of Credit in an amount equal to such payment and any default interest accruing thereon in accordance with this Agreement, to the extent not withdrawn under paragraph (i) above,

and the relevant payment shall be deemed to have been made by the Purchaser on the date that such amount is withdrawn from any Escrow Account or received under a Letter of Credit or Guaranteed Letter of Credit.

**13.6.2** If this Agreement is terminated in accordance with its terms for any reason other than for a Seller Event of Default, then the Seller shall be entitled to any one or more of the following, as applicable:

- (i) to make a withdrawal from any Escrow Account; or
- (ii) to make a claim under any Letter of Credit;

in an aggregate amount equal to the Liquidity Support Balance and such amount, if received, shall be deducted from any termination amount payable by the Government pursuant to schedule 6 (Termination payments and Transfer of the Government Support Agreement) of the Government Support Agreement. For the avoidance of doubt, a Guaranteed Letter of Credit may not be drawn to satisfy any termination amount payable by the Government pursuant to schedule 6 (*Termination payments and Transfer of the Government Support Agreement*).<sup>39</sup>

**13.6.3** Promptly following any withdrawal from any Escrow Account and/or payment following any claim under a Letter of Credit or Guaranteed Letter of Credit, the Seller shall notify the Purchaser in writing of (i) the circumstances and the amount of such withdrawal and/or claim (as applicable), and (ii) the Purchaser's obligation to replenish the Escrow Account, Letter of Credit or Guaranteed Letter of Credit (as applicable) in accordance with Clause 13.1.3.

### 13.7 Other provisions

**13.7.1** The Parties agree that any Escrow Account, any Letter of Credit and any Guaranteed Letter of Credit may be secured in favour of any Lenders [by way of a security assignment]<sup>40</sup> or such other equivalent security structure as is

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<sup>39</sup> **Note:** If Guaranteed Letter of Credit is not backed by IDA, check to see if the relevant guarantor will permit it to be drawn for a partial termination payment.

<sup>40</sup> **Note:** This wording is subject to jurisdictional review.

applicable in the jurisdiction in which the Escrow Account is held or under the law which governs the Letter of Credit or Guaranteed Letter of Credit, as applicable.

**13.7.2** All payments by an Escrow Agent or an LC Issuing Bank under this Clause 13 (*Liquidity support mechanism*) shall be made gross and without deduction or withholding of any kind other than any deduction or withholding required by law (in which case Clause 13.7.3 will apply) in accordance with the Escrow Letter, Letter of Credit or Guaranteed Letter of Credit.

**13.7.3** If a payment to the Seller under this Clause 13 (*Liquidity support mechanism*) will be or has been subject to any deduction or withholding of any kind or any Tax, the Escrow Agent or LC Issuing Bank shall, on demand from the Seller, pay to the Seller from the Escrow Account, Letter of Credit or Guaranteed Letter of Credit the amount (after taking into account the deduction, withholding or Tax payable in respect of the amount) that will ensure that the Seller receives and retains a net sum equal to the sum it would have received had the payment not been subject to the deduction, withholding or Tax in accordance with the Escrow Letter, Letter of Credit or Guaranteed Letter of Credit.

**13.7.4** On the date falling 90 days after the termination or expiry of this Agreement, the money standing to the credit of any Escrow Account at that date (less the total of any outstanding claims made by the Seller under this Clause 13 (*Liquidity support mechanism*)) shall be transferred to another account of the Purchaser or as it may direct. Any Letter of Credit or Guaranteed Letter of Credit in place at that time may be cancelled.

### 13.8 Disputes as to amounts

**13.8.1** The obligations of the Purchaser under this Clause 13 (*Liquidity support mechanism*) are unconditional. If the Purchaser wishes to dispute whether an amount is due and payable under this Agreement, it shall comply with its obligation to maintain the Liquidity Support Balance at the Required Liquidity Support Amount and shall, subject to Clause 21.2 (*Amicable resolution*), be entitled to submit an outstanding Dispute to an Expert in accordance with Clause 21.3 (*Expert determination*).

**13.8.2** If the Seller has withdrawn an amount from any Escrow Account and/or received payment following a claim made under a Letter of Credit or Guaranteed Letter of Credit to which it was not entitled, it shall repay either:

- (i) if an Escrow Account exists, such amount into the Escrow Account; or
- (ii) such amounts drawn under any Letter of Credit or Guaranteed Letter of Credit, to the Purchaser,

in each case within 14 days of any determination or award to that effect, together with (A) interest thereon from but excluding the date initially withdrawn or on which payment was received to and including the date repaid, at the Interest Rate, and (B) the reasonable and duly documented costs incurred by the Purchaser.

14 **Relief Events**

14.1 **Events permitting relief**

Subject to Clauses 14.2 (*Requirements for Seller to claim relief*) to 14.4 (*Duty to mitigate*) inclusive, the Seller shall be entitled to the relief set out in Clause 14.5 (*Relief from liability and extensions of time*) where any one of the following events or circumstances (or any combination of the following events or circumstances) occurs:

**14.1.1** a "**Shared Risk Event**", being:

- (i) a Diligence Event; or
- (ii) a Force Majeure Event;

**14.1.2** a "**No Fault Purchaser Risk Event**", being:

- (i) a [**country**] Risk Event; or
- (ii) a Curtailment (No Fault) Event; or

**14.1.3** a "**Purchaser Risk Event**", being:

- (i) a Change in Law;
- (ii) a Curtailment (Fault) Event;
- (iii) a Related-Party Default Event;
- (iv) the Purchaser failing to dispatch or procure dispatch of the PV Plant upon receipt of notice requiring the dispatch or accept delivery of any PV Plant Net Electrical Output, in each case necessary to permit Commissioning in accordance in accordance with Clause 5.3.4; and
- (v) the Purchaser failing to dispatch the BESS in accordance with Clause 5.3.4 or 6.3.2 or the Purchaser failing to supply Charging Energy (Grid) to the Seller in accordance with Clause 5.3.4.

provided however that the terms No Fault Purchaser Risk Event and Purchaser Risk Event shall not include the following events:

- (i) the unavailability of, or shortfall in, solar irradiation (except where such unavailability or shortfall of solar irradiation is itself attributable to a Relief Event);
- (ii) lack of funds due to any commercial, economic or financial reason;
- (iii) any changes in the cost and quantities of plant or materials during the construction stage (except where such changes are attributable to a Purchaser Risk Event);

- (iv) late delivery of machinery or other materials or a delay in the performance by any contractor or supplier (except where such late delivery or delay is itself attributable to a Relief Event); or
- (v) normal wear and tear or defects in materials and equipment or breakdown in equipment.

Each such event or circumstance (or combination thereof) satisfying the requirements of this Clause 14 (*Relief Events*) shall be a "**Relief Event**".<sup>41</sup>

#### 14.2 Requirements for Seller to claim relief

The Seller shall only be entitled to the relief set out in Clause 14.5 (*Relief from liability and extensions of time*) where the Relief Event:

- 14.2.1** does not result from a breach by the Seller of this Agreement or any Related Agreement;
- 14.2.2** is beyond the reasonable control of the Seller;
- 14.2.3** is notified to the Purchaser in compliance with Clause 14.3 (*Notification of Relief Event*);
- 14.2.4** could not have been prevented by the Seller by the exercise of reasonable care and skill and through acting in accordance with Prudent Utility Practice taking into account the likelihood of such event, the effect of such event if it should occur, and the likely efficacy, cost and cost-effectiveness of protective measures; and
- 14.2.5** materially and adversely affects the ability of the Seller to:
  - (i) perform its obligations under this Agreement or the Related Agreements; or
  - (ii) enjoy its rights under, and benefits of, this Agreement or the Related Agreements.

#### 14.3 Notification of Relief Event

- 14.3.1** The Seller shall notify the Purchaser promptly (and in any case within 14 days of becoming aware) of any Relief Event that it believes satisfies the requirements of Clauses 14.2.1, 14.2.2, 14.2.4 and 14.2.5, its likely duration and the consequences for its obligations or enjoyment of rights and benefits under this Agreement and the Related Agreements. The failure of the Seller to satisfy the foregoing notice requirement by the stated deadline shall result in the relevant Relief Event being deemed to have commenced as of the date the Seller provides notice thereof to the Purchaser.
- 14.3.2** After delivering a notice pursuant to Clause 14.3.1, the Seller shall keep the Purchaser informed of material developments relating to the Relief Event.

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<sup>41</sup> Consider whether to include, as a Relief Event, Seller's inability to obtain any agreed on exemption to the Grid Code, where the Grid Code is substantially more onerous than the specifications set forth in the PPA.

**14.3.3** Where a Relief Event is persistent or recurring (as may be the case with a Curtailment Event), the Seller shall be entitled to deliver a single notice identifying each instance of that Relief Event in the previous 14-day period.

#### 14.4 Duty to mitigate

**14.4.1** The Seller shall use reasonable endeavours to continue to perform its obligations under this Agreement and the Related Agreements and to minimise the adverse effects of the Relief Event.

**14.4.2** The Seller shall notify the Purchaser of the steps it proposes to take to minimise the effects of the Relief Event, including any reasonable alternative means for performance of its obligations under this Agreement and the Related Agreements. The Purchaser shall use reasonable endeavours to co-operate in taking such steps, to the extent that it is not prejudiced by doing so.

**14.4.3** Subject to Clause 15.7 (*Provisions relating to blackmail, intimidation or vandalism*), if any Dispute arises as to whether or not and the extent to which the Seller is entitled to relief under this Clause 14 (*Relief Events*), the Seller shall have the burden of proving that the circumstance, event or combination of circumstances or events constitutes a Relief Event and that it has exercised reasonable diligence and efforts to avoid the effects of such event or circumstance (or combination thereof).

#### 14.5 Relief from liability and extensions of time

**14.5.1** Where the Seller is entitled to relief in accordance with this Clause 14 (*Relief Events*):

- (i) the Seller shall not be liable for any failure or delay in performing its obligations under this Agreement or the Related Agreements to the extent that such failure or delay in performance has been caused or contributed to by one or more of the Relief Events;
- (ii) if the Seller's ability to perform an obligation under this Agreement or the Related Agreements by a contractual deadline set out in this Agreement or a Related Agreement (including the Longstop Effective Date, the Scheduled Commercial Operations Date or the Longstop Commercial Operations Date) is affected by a Relief Event, the relevant contractual deadline shall be extended by one day for each day that the Seller is unable as a result of such Relief Event to comply with the relevant obligation, or is delayed as a result of such Relief Event in complying with the relevant obligation, under this Agreement and the Related Agreements; and
- (iii) subject to Clause 14.5.2, the obligations of the Purchaser shall be suspended to an equivalent extent as those of the Seller.

**14.5.2** Notwithstanding any other provision of this Agreement, neither Party shall be entitled to claim relief from its liability to make a payment under this Agreement by reason of this Clause 14 (*Relief Events*).

15 **Financial protections**

15.1 **Deemed Storage Capacity**

**15.1.1** From and after the Commercial Operations Date, if, and to the extent that, as a result of one or more Relief Events which are Purchaser Risk Events or No Fault Purchaser Risk Events (but not Shared Risk Events), the Seller is prevented from, or restricted in making Available the Net Dependable Capacity then, for any period that such events or circumstances are continuing, the Purchaser shall pay for the Deemed Storage Capacity, calculated in accordance with Schedule 9 (*Determination of payments*).

**15.1.2** Notwithstanding Clause 15.1.1, no payment shall be made for Deemed Storage Capacity accruing over the first 40 hours in any Contract Year for which the Seller would, but for this Clause 15.1.2, be entitled to such payment.

15.2 **Deemed generation**

**15.2.1** From and after the Commercial Operations Date, if, and to the extent that, as a result of one or more Relief Events (but not Shared Risk Events) which are Purchaser Risk Events or No Fault Purchaser Risk Events, the Seller is prevented from, or restricted in delivering PV Plant Net Electrical Output then, for any period that such events or circumstances are continuing, the Purchaser shall pay for the Deemed Generated Energy, calculated in accordance with Schedule 9 (*Determination of payments*).

**15.2.2** Notwithstanding Clause 15.2.1, no payment shall be made for Deemed Generated Energy accruing over the first 40 hours in any Contract Year for which the Seller would, but for this Clause 15.2.2, be entitled to such payment.

15.3 **Increased Costs**

**15.3.1** In each Contract Year commencing with the Contract Year in which the Effective Date occurs, the Seller shall be entitled to recover from the Purchaser (without double counting):

- (i) actual Increased Costs incurred by the Seller in that Contract Year; and
- (ii) the net present value (discounted at an annual discount rate of 10%) of any subsequent Increased Costs to be realised in any subsequent Contract Year by the Seller during the term of this Agreement,

**15.3.2** The Seller shall only be able to claim Increased Costs under Clause 15.3.1 where such costs exceed the Increased Costs Threshold in the aggregate, provided that, following calculation and payment of such Increased Costs, the same rule shall apply in respect of future claims.

**15.3.3** The Purchaser shall compensate the Seller for such Increased Costs and may do so:

- (i) subject to the consent of the Seller (acting reasonably) and Clause 15.3.4 below, by increasing the Capacity Charge and / or Energy Charge;

- (ii) by making a single one-off payment, in an amount and at a time satisfactory to the Seller (acting reasonably); or
- (iii) by paying in instalments, in amounts and at times satisfactory to the Seller (acting reasonably).

**15.3.4** The Seller shall not withhold its consent to being reimbursed for Increased Costs through an increase to the Capacity Charge and/or Energy Charge where and to the extent:

- (i) such Increased Costs relate to an increase in the ongoing operation and maintenance costs or a decrease in the revenues of the Project; or
- (ii) the Seller could reasonably be expected to be able to raise additional finance to fund the Increased Costs against the value of the proposed increase in the Capacity Charge and/or Energy Charge.

**15.3.5** If the Parties are unable to agree as to the amount of such Increased Costs or how and when such Increased Costs should be compensated, either Party shall, subject to Clause 21.2 (*Amicable resolution*), be entitled to submit an outstanding Dispute to an Expert in accordance with Clause 21.3 (*Expert determination*).

#### 15.4 Requirements for Seller to benefit from financial protections

The Seller shall only be entitled to payments for Deemed Storage Capacity or Deemed Generated Energy or to recover Increased Costs where the event or circumstance (or combination thereof) set out in Clause 15.1 (*Deemed Storage Capacity*) or Clause 15.3 (*Increased Costs*) and the financial effect thereof:

- 15.4.1** does not result from a breach by the Seller of this Agreement or any Related Agreement;
- 15.4.2** is beyond the reasonable control of the Seller; and
- 15.4.3** could not have been prevented, mitigated, reduced or avoided by the Seller by the exercise of reasonable care and skill and through acting in accordance with Prudent Utility Practice taking into account the likelihood of such event, the effect of such event if it should occur, and the likely efficacy, cost and cost-effectiveness of protective or mitigating measures.

#### 15.5 Notification of financial effects

- 15.5.1** In respect of any entitlement (or purported entitlement) to Deemed Storage Capacity or Deemed Generated Energy, the Seller shall include with any notice or update of a Relief Event provided pursuant to Clause 14.3 (*Notification of Relief Event*), details of the likely financial effects of the Purchaser Risk Event or No Fault Purchaser Risk Event.
- 15.5.2** In respect of any entitlement (or purported entitlement) to Increased Costs, the Seller shall notify the Purchaser promptly (and in any case within 14 days of becoming aware) of the Purchaser Risk Event or No Fault Purchaser Risk Event occurring [or of the fact that a Specified Fiscal Assumption is inaccurate] and its likely financial effects.

**15.5.3** After delivering a notice pursuant to Clause 15.5.2, the Seller shall keep the Purchaser informed of material developments relating to the Purchaser Risk Event or No Fault Purchaser Risk Event.

**15.6 Duty to mitigate financial effects**

**15.6.1** The Seller shall use reasonable endeavours to minimise the adverse financial effects of the Purchaser Risk Event or No Fault Purchaser Risk Event.

**15.6.2** Subject to Clause 15.7 (*Provisions relating to blackmail, intimidation or vandalism*), if any Dispute arises as to whether or not and the extent to which the Seller is entitled to the financial protections under this Clause 15 (*Financial protections*), the Seller shall have the burden of proving that the circumstance, event or combination of circumstances or events constitutes a Purchaser Risk Event or No Fault Purchaser Risk Event and that it has exercised reasonable diligence and efforts to minimise the adverse financial effects of such event or circumstance (or combination thereof).

**15.7 Provisions relating to blackmail, intimidation or vandalism**

Where the Purchaser can demonstrate that an act of blackmail, intimidation or vandalism is an isolated act which is not connected to any Government Related Party or to general security conditions pertaining in [country] at that time and that Government Related Parties are taking appropriate steps to prevent such act, it shall constitute a [No Fault Purchaser Risk Event/Force Majeure Event under paragraph (iii) of the definition of Force Majeure Event and not a No Fault Purchaser Risk Event under paragraph (i) of the definition of [Country] Risk Event].

**15.8 Provisions relating to Insurance Proceeds**

**15.8.1** If the Seller has received Insurance Proceeds, liquidated damages or other compensation in respect of:

- (i) revenue losses associated with a Purchaser Risk Event or No Fault Purchaser Risk Event; or
- (ii) liabilities, costs, charges, claims, expenses or losses that are attributable to any Purchaser Risk Event or No Fault Purchaser Risk Event [or inaccurate Specified Fiscal Assumption],

the Purchaser's liability for Deemed Storage Capacity and/or Increased Costs shall be reduced by an amount equal to the amount of Insurance Proceeds, liquidated damages or other compensation received (net of all costs and expenses incurred in recovering the same, all costs and expenses incurred in converting the same into the currency of any Increased Costs and all Tax payable in respect of the amounts so received).

**15.8.2** If the Seller receives Insurance Proceeds, liquidated damages or other compensation which is attributable to any amount for which it has already received payment from the Purchaser for Deemed Storage Capacity and/or Increased Costs, it shall reimburse the Purchaser for an amount equal to the amount of Insurance Proceeds, liquidated damages or other compensation received (net of all costs and expenses incurred in recovering the same and all Tax payable in respect of the amounts so received).

16 **Decreased Costs**

16.1 The Purchaser shall be entitled to receive the benefit of all Decreased Costs (subject to Clause 16.2 below) by means of equitable adjustments to the Capacity Charge and/ or Energy Charge. Any Decreased Cost taken into account in determining that an adjustment to the Capacity Charge and/or Energy Charge is required under this Clause 16.1 shall, once such adjustment has been effected, be ignored for the purposes of subsequent calculations under this Clause 16.1.

16.2 The Purchaser shall only be entitled to receive the benefit of Decreased Costs under Clause 16.1 where, during any Contract Year commencing with the Contract Year in which the Effective Date occurs, the sum of:

**16.2.1** the actual Decreased Cost incurred in or prior to such Contract Year; and

**16.2.2** the net present value (discounted at an annual discount rate of 10%) of any such Decreased Costs to be incurred in any subsequent Contract Year during the term of this Agreement,

exceed the Decreased Costs Threshold in the aggregate, provided that, following calculation and payment of such Decreased Costs, the same rule shall apply in respect of future claims.

16.3 If the Parties are unable to agree the amount of the Decreased Costs or the downward adjustment to the Capacity Charge and/or Energy Charge, either Party may, subject to Clause 21.2 (*Amicable resolution*), be entitled to submit an outstanding Dispute to an Expert in accordance with Clause 21.3 (*Expert determination*).

17 **Default and termination**

17.1 **Meaning of remedy**

For the purposes of this Clause 17 (*Default and termination*), an Event of Default shall be deemed to be remedied if, within any applicable cure period, in respect of:

**17.1.1** a breach of or failure to perform an on-going obligation or obligation which can still be performed, the defaulting Party resumes performance of or performs such obligation; and

**17.1.2** a misrepresentation or a breach of or failure to perform any obligation, the defaulting Party rectifies, compensates or otherwise holds harmless the non-defaulting Party for any loss or damage it has incurred.

17.2 **Seller Events of Default**

Unless caused by a Relief Event, each of the following events shall be a "**Seller Event of Default**" which, if not remedied within the time permitted in this Clause 17.2 (*Seller Events of Default*) shall, without prejudice to any Lenders' rights under any Direct Agreement, give rise to the right on the part of the Purchaser to terminate this Agreement:

**17.2.1 Completion**

The failure by the Seller to achieve the PV Plant Minimum Acceptance Capacity and/or the BESS Minimum Storage Capacity by the Longstop Commercial Operations Date.

**17.2.2 Abandonment**

Abandonment occurs for a continuous period of 60 days or for non-continuous periods of greater than seven days which together subsist for a cumulative period of 60 days over the course of any 52-week period.

### 17.2.3 Material breach

The occurrence of any of the following events:

- (i) a failure by the Seller to pay any undisputed amount due and outstanding to the Purchaser under this Agreement within 45 days following notice from the Purchaser stating that such payment is overdue;
- (ii) a failure by the Seller to comply with the Laws of [country], the Grid Code or any Consents which (a) could materially and adversely affect its ability to perform under this Agreement or (b) is a material failure to comply with such Laws of [country], Grid Code or Consents and in each case, which is not remedied within 180 days following notice from the Purchaser requiring such failure to be remedied;
- (iii) a failure by the Seller to comply with the insurance undertakings in Clause 10.4 (*Insurance undertakings*), which failure is not remedied within 90 days following notice from the Purchaser requiring such failure to be remedied;
- (iv) a transfer or assignment of this Agreement by the Seller to a third party, except where such transfer or assignment is effected in accordance with Clause 19 (*Transfer and assignment*);
- (v) the Seller sells or delivers PV Plant Net Electrical Output or BESS Net Electrical Output to third parties in breach of paragraph (ii) of Clause 10.3.1 (*Undertakings of the Seller*) and Clause 17.10 (*Suspension and sales to third parties*), which failure is not remedied within 90 days following notice from the Purchaser requiring such failure to be remedied; or
- (vi) a failure by the Seller to procure an End-of-Term Bond in accordance with Clause 10.3.2.

### 17.2.4 Insolvency<sup>42</sup>

The occurrence of any of the following events:

- (i) the passing of a resolution by the shareholders of the Seller for the dissolution or winding up of the Seller;
- (ii) the voluntary filing by the Seller of a petition of bankruptcy, moratorium on debt payments or other similar relief;
- (iii) the Seller makes an assignment for the benefit of its creditors, save where such assignment is made for the benefit of the Lenders pursuant to the Financing Agreements or the Direct Agreement;
- (iv) the appointment of a receiver or trustee over the whole or any part of the assets of the Seller which is not vacated within 180 days of such appointment;

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<sup>42</sup> **Note:** Please refer to drafting notes. These provisions should be reviewed in the context of local law advice.

- (v) the appointment of a liquidator in proceedings for the winding up of the Seller, after notice to the Seller and due hearing, which appointment has not been set aside or stayed within 180 days of the appointment; or
- (vi) the making by a court with jurisdiction over the Seller of an order of winding up the Seller, that is not stayed or reversed by a court of competent jurisdiction within 180 days.

#### 17.2.5 Minimum Interests

The Seller is in breach of its obligation under Clause 20 (*Minimum Interests*).

### 17.3 Purchaser Events of Default

Each of the following shall be "**Purchaser Event of Default**" which, if not remedied within the time permitted shall give rise to the right on the part of the Seller to terminate this Agreement:

#### 17.3.1 Non-payment

A failure by the Purchaser to pay any amount due and outstanding to the Seller under this Agreement within 45 days following notice from the Seller stating that such payment is overdue, unless such payment is made in full by the Government or the Seller is able to receive payment in full by way of a withdrawal by the Seller from an Escrow Account and/or claim under a Letter of Credit or Guaranteed Letter of Credit in accordance with Clause 13.6 (*Use of funds*).

#### 17.3.2 Liquidity support mechanism

- (i) Other than in relation to any Liquidity Support Inadequacy Event (to which paragraph (ii) below applies) a breach by the Purchaser of its obligation to maintain the Liquidity Support Balance at the Required Liquidity Support Amount which has not been remedied within 44 days of the Seller notifying the Purchaser that it requires such breach to be remedied pursuant to Clause 13.1.2. The Purchaser shall not have remedied a breach of this paragraph (i) unless it has replenished the Escrow Account or replaced the Letter of Credit or Guaranteed Letter of Credit (as applicable) such that the Liquidity Support Balance is equal to or greater than the Required Liquidity Support Amount.
- (ii) The occurrence of a Liquidity Support Inadequacy Event which has not been remedied in accordance with the timeframes and the other requirements set out in Clause 13.5 (*Liquidity Support Inadequacy Events*).
- (iii) A breach by the Purchaser of any other material provision of Clause 13 (*Liquidity support mechanism*) which has not been remedied within 45 days of the Seller notifying the Purchaser of such breach.

#### 17.3.3 Material breach

Any material breach, default or misrepresentation by the Purchaser of any provision of this Agreement (other than breaches referred to in the other paragraphs of this Clause 17.3 (*Purchaser Events of Default*)), which is not remedied within 60 days after notice from the Seller, stating that a material misrepresentation, breach or default under this Agreement has occurred and is continuing and identifying the misrepresentation, breach or default in question in reasonable detail.

#### 17.3.4 Insolvency<sup>43</sup>

The occurrence of any of the following events (other than where such event occurs as a result of a reorganisation, restructuring or privatisation of any or all of the functions of the Purchaser in accordance with clause 4.7 (*Privatisation and existence of Purchaser*) of the Government Support Agreement):

- (i) the passing of a resolution by the shareholders of the Purchaser for the dissolution or winding up of the Purchaser;
- (ii) the voluntary filing by the Purchaser of a petition of bankruptcy, moratorium on debt payments or other similar relief;
- (iii) the Purchaser makes an assignment for the benefit of its creditors;
- (iv) the appointment of a receiver or trustee over the whole or any part of the assets of the Purchaser which is not vacated within 180 days of such appointment;
- (v) the appointment of a liquidator in proceedings for the winding up of the Purchaser, after notice to the Purchaser and due hearing, which appointment has not been set aside or stayed within 180 days of the appointment; or
- (vi) the making by a court with jurisdiction over the Purchaser of an order of winding up the Purchaser, that is not stayed or reversed by a court of competent jurisdiction within 180 days.

#### 17.3.5 Material Change in Law

A Change in Law resulting in:

- (i) any material undertaking or obligation of a Government Related Party under this Agreement or any Related Agreements becoming illegal, unenforceable, invalid or void;
- (ii) it becoming unlawful for the Seller or any Lenders to make or receive any payment or to perform any obligation or to enjoy or to enforce any material right or material benefit under this Agreement or any Related Agreement; or
- (iii) an entitlement, where the effects of the Change in Law are not to be wholly compensated by way of a lump sum payment in accordance with Clause 15.3 (*Increased Costs*), to financial protection arising under Clause 15 (*Financial protections*) (whether by way of payments for Deemed Generated Energy, Deemed Storage Capacity, a net increase in the Capacity Charge and/or Energy Charge, or compensation paid in instalments) having the effect of increasing the total annual payments to be made by the Purchaser in any Contract Year over the remainder of the term of this Agreement by an amount equal to or exceeding 50 per cent. or more of the Capacity Charge and/or Energy Charge (being for these purposes the Capacity Charge and/or Energy Charge at the date of this Agreement) in that Contract Year,

which in each case continues for more than 30 days.

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<sup>43</sup> **Note:** Please refer to drafting notes. These provisions should be reviewed in the context of local law advice.

### 17.3.6 Termination of a Related Agreement

A Related Agreement (other than (i) the Government Support Agreement, in respect of which Clause 17.3.7 (*Government Event of Default*) shall apply, and (ii) any Escrow Letter, Letter of Credit, Guaranteed Letter of Credit or documentation entered into in connection with any Qualifying Credit Enhancement, in respect of which Clause 17.3.2 (*Liquidity support mechanism*) shall apply) is terminated otherwise than as a result of an event of default by the Seller, or, if applicable, any Lenders.

### 17.3.7 Government Event of Default

The Government Support Agreement is terminated as a result of a Government Event of Default.

## 17.4 Long-term relief termination

**17.4.1** Subject to Clause 17.4.3, if the Seller is excused from the performance of any material obligation under this Agreement in accordance with Clause 14 (*Relief Events*) for:

- (i) a continuous period of 180 days by reason of:
  - (a) a Diligence Event; or
  - (b) a Force Majeure Event; or
- (ii) a continuous period of 365 days by reason of:
  - (a) a [Country] Risk Event of the type set out in paragraphs (i) to (iii) of the definition thereof;
  - (b) a Curtailment (No Fault) Event; or
  - (c) a Curtailment (Fault) Event,

then the Seller may at any time thereafter terminate this Agreement in accordance with Clause 17.6.3 (*Termination procedure on long-term relief termination*).

**17.4.2** Subject to Clause 17.4.3, if the Seller is excused from the performance of any material obligation under this Agreement in accordance with Clause 14 (*Relief Events*) for a continuous period of 365 days by reason of a [Country] Risk Event of the type set out in paragraphs (iv) to (vii) of the definition thereof, then either the Seller or the Purchaser may at any time thereafter terminate this Agreement in accordance with Clause 17.6.3 (*Termination procedure on long-term relief termination*).

**17.4.3** Where the Seller (or any Lender) is entitled to receive insurance proceeds in respect of the event giving rise to termination, then the Seller shall not be entitled to terminate this Agreement under this Clause 17.4 (*Long-term relief termination*) if there is a reasonable likelihood that the Complex or Purchaser Interconnection Facilities (as the case may be) can be fully reinstated within 18 months of the occurrence of such event using such insurance proceeds and without giving rise to a Seller Event of Default.

17.5 **Sole rights of termination**

The only rights of the Parties to terminate this Agreement are as set out in Clauses 2.4 (*Non-fulfilment*), 17.2 (*Seller Events of Default*), 17.3 (*Purchaser Events of Default*) and 17.4 (*Long-term relief termination*) and all rights to terminate this Agreement which may be available under law are hereby excluded.

17.6 **Termination procedures**

**17.6.1 Termination procedure on Events of Default (other than Government Events of Default)**

- (i) If any Event of Default (other than the Purchaser Event of Default contemplated in Clause 17.3.7 (*Government Event of Default*)) occurs and is continuing, the non-defaulting Party may deliver a notice ("**Notice of Intent to Terminate**") to the defaulting Party, which notice shall specify in reasonable detail the Event of Default giving rise to the Notice of Intent to Terminate and a cure period during which such Event of Default should be remedied. Such cure period shall be:
  - (a) where there is an Event of Default under paragraph (i) of Clause 17.3.2 (*Liquidity support mechanism*) and there is a Qualifying Credit Enhancement, not less than 11 months or, if the Liquidity Support Balance is zero, provided that at the time that such Event of Default occurs there are no amounts due and outstanding to the Seller under this Agreement, not less than five months;
  - (b) where there is an Event of Default under paragraph (i) of Clause 17.3.2 (*Liquidity support mechanism*) and there is no Qualifying Credit Enhancement, provided that at the time that such Event of Default occurs there are no amounts due and outstanding to the Seller under this Agreement, not less than 75 days; and
  - (c) in all other circumstances, not less than 45 days,in each case from the date on which the Event of Default first occurred and has not been remedied.
- (ii) If the non-defaulting Party is the Seller, it shall, at the same time it sends a Notice of Intent to Terminate to the Purchaser, send a copy to the Government.
- (iii) Subject to paragraph (vi) of Clause 17.6.1 (*Termination procedure on Events of Default (other than Government Events of Default)*), in the event that the Purchaser has not, following its receipt of a Notice of Intent to Terminate, remedied such Event of Default before the expiry of the cure period under paragraph (i) of Clause 17.6.1 (*Termination procedure on Events of Default (other than Government Events of Default)*), the Seller may terminate this Agreement by delivering a notice of termination to the Purchaser. This Agreement shall terminate on the date that notice is delivered to the Purchaser.
- (iv) If the non-defaulting Party is the Purchaser, it shall, at the same time it sends a Notice of Intent to Terminate to the Seller, send a copy to the Lenders (if any).
- (v) Subject to paragraph (vi) of Clause 17.6.1 (*Termination procedure on Events of Default (other than Government Events of Default)*), in the event that the Seller

has not, following its receipt of a Notice of Intent to Terminate, remedied such Event of Default before the expiry of the cure period under paragraph (i)(c) of Clause 17.6.1 (*Termination procedure on Events of Default (other than Government Events of Default)*):

- (a) in circumstances where there are no Lenders, the Purchaser may terminate this Agreement by delivering a notice of termination to the Seller and this Agreement shall terminate on the date that notice is delivered to the Seller; and
  - (b) in circumstances where there are Lenders, the Purchaser may deliver a Termination Notice in accordance with clause 4.2 (*Termination Notice*) of the Direct Agreement and the provisions of the Direct Agreement shall apply.
- (vi) A Party may not issue a notice of termination unless it has complied with the applicable termination procedure set out in this Clause 17.6.1 (*Termination procedure on Events of Default (other than Government Events of Default)*) and in the Direct Agreement (if any).

#### **17.6.2 Termination procedure on Government Events of Default**

If the Government Support Agreement is terminated as a result of a Government Event of Default, the Seller may terminate this Agreement by delivering a notice of termination to the Purchaser. This Agreement shall terminate on the date that notice is delivered to the Purchaser.

#### **17.6.3 Termination procedure on long-term relief termination**

- (i) Where the Seller or the Purchaser (as the case may be) elects to terminate this Agreement pursuant to Clause 17.4 (*Long-term relief termination*), it shall serve notice on the other Party. The notice to terminate shall specify the termination date, which shall be not less than 45 days after the date on which the notice to terminate is given.
- (ii) Provided that the notice to terminate has been validly delivered, this Agreement shall terminate on the termination date set out in the notice.

### **17.7 Obligations upon termination**

**17.7.1** If this Agreement is terminated pursuant to this Clause 17 (*Default and termination*), the provisions of clause 8 (*Default and termination*) of the Government Support Agreement shall apply.

**17.7.2** If this Agreement is terminated before the Commercial Operations Date as a result of a Seller Event of Default, the Purchaser shall, in addition, be entitled to draw on the Performance Bond in full.

**17.7.3** Except as provided in this Clause 17 (*Default and termination*), on the expiration or termination of this Agreement, the Parties shall have no further obligations or liabilities hereunder except for the Surviving Provisions.

**17.8 Other remedies**

The termination of this Agreement shall be without limitation of or prejudice to any other relief, remedy or antecedent right or obligation of either Party under or in connection with this Agreement. Save as expressly indicated, remedies are cumulative, and the exercise of, or failure to exercise, one or more remedy by a Party shall not limit or preclude the exercise of, or constitute a waiver of, other remedies by such Party.

**17.9 Consequential loss**

Without prejudice (and subject) to the payments expressly provided for in this Agreement, including Clause 8 (*Operation and maintenance*) and any payments pursuant to clause 8 (*Default and termination*) of the Government Support Agreement, no Party shall be liable to the other Party under this Agreement in respect of any loss of opportunity, loss of profit, loss of revenue, loss of use, loss of contract or loss or diminution of goodwill, any indirect or consequential loss or any punitive damages.

**17.10 Suspension and sales to third parties**

**17.10.1** Without prejudice to the Seller's right to terminate this Agreement pursuant to this Clause 17 (*Default and termination*) and notwithstanding that the Liquidity Support Balance is greater than zero, if the Purchaser has failed to make any payment within 60 days of the relevant Due Date, the Seller may serve notice on the Purchaser and the Government that it will:

- (i) suspend deliveries of PV Plant Net Electrical Output and/or BESS Net Electrical Output with effect from the fifth day following such notice unless such payment has then been received, following which it may suspend deliveries of PV Plant Net Electrical Output and/or BESS Net Electrical Output; or
- (ii) sell and deliver PV Plant Net Electrical Output and/or BESS Net Electrical Output to a third party with effect from the fifth day following such notice unless payment has then been received, following which it may make such sales of PV Plant Net Electrical Output and/or BESS Net Electrical Output, provided however that any such sale of PV Plant Net Electrical Output and/or BESS Net Electrical Output (as applicable) must be made in accordance with the Laws of [country] and the Industry Documents.

**17.10.2** The Seller's rights under Clause 17.10.1 shall no longer apply with effect from the fifth day following payment in full by the Purchaser to the Seller of all amounts then outstanding.

**17.10.3** Where the Seller exercises its rights under Clause 17.10.1, such event shall, for the purposes of Clause 15 (*Financial protections*), be deemed to be a Relief Event which is a Purchaser Risk Event and the Seller shall be entitled to payments for Deemed Generated Energy and/or Deemed Storage Capacity (net of any sales proceeds received from third parties).

**18 Confidentiality**

**18.1 Restriction**

**18.1.1** Subject to the exceptions provided in Clause 18.2 (*Exceptions*), each Party shall treat as strictly confidential and not disclose or use (other than solely for the

purposes of the Project) any information or data disclosed to it by the other Party in connection with this Agreement and any Related Agreement or this Agreement and any Related Agreement itself (the "**Confidential Information**") from the date of this Agreement until three years following the termination of this Agreement.

**18.1.2** For the purposes of this Clause 18 (*Confidentiality*), the term "Confidential Information" shall not include information which:

- (i) at the time of disclosure or at any time thereafter is in, or becomes part of, the public domain otherwise than as a result of a breach of this Clause 18 (*Confidentiality*);
- (ii) is required by law or appropriate regulatory/constitutional authority to be disclosed to any person who is authorised by law to receive the same;
- (iii) the Party receiving the information can prove was already known to it, or was independently acquired or developed by it without being in breach of its obligations under this Clause 18 (*Confidentiality*); or
- (iv) was or is obtained from a third party who is free to divulge the same and which was or is not obtained under any obligation of confidentiality.

## 18.2 Exceptions

Clause 18.1 (*Restriction*) shall not prohibit disclosure or use of any Confidential Information if and to the extent that:

**18.2.1** the other Party has given prior written approval to the disclosure or use;

**18.2.2** the disclosure or use is required for the purpose of any judicial or arbitral proceedings arising out of this Agreement or any Related Agreement or in order to enable a determination to be made by an Expert;

**18.2.3** the disclosure is made to any professional advisers, Governmental Authority, shareholders (direct or indirect), agents, consultants, contractors, potential transferees or purchasers of the interests of a shareholder (direct or indirect), insurers, any Lenders, actual or potential financiers of either Party or one of its Affiliates or any of their advisers on terms that such recipients undertake to comply with the provisions of this Clause 18 (*Confidentiality*) in respect of the Confidential Information as if they were a party to this Agreement; or

**18.2.4** the disclosure is required by law, any governmental or regulatory body or any recognised exchange upon which the share capital of the Party or any Affiliate of the Party making the disclosure is proposed to be, from time to time, listed or dealt in.

## 19 Transfer and assignment

19.1 Subject to Clauses 19.2 to 19.6 and the terms of any Direct Agreement, neither Party may assign or otherwise transfer all or any of its rights, benefits or obligations under or pursuant to this

Agreement or any Related Agreement to which the other Party is a party to another person without that Party's prior written consent.

19.2 If the Seller is the Lead Sponsor (the "**Existing Seller**"), it may on one occasion within [30] days of the date of this Agreement, by execution of the Novation Certificate, transfer by novation all of its rights and obligations under this Agreement to a third party (the "**New Seller**");

**19.2.1** which is a limited liability company validly existing under the Laws of [country]; and

**19.2.2** whose shareholders include the Anchor Sponsor(s) holding, directly or indirectly, the beneficial economic interests as specified in Section B (*Seller Information*) of Part I (*General*) of Schedule 1 (*Seller specific information*).

19.3 Where the Existing Seller transfers by novation its rights and obligations under this Agreement, the Purchaser and the Existing Seller shall be released from further obligations towards one another under this Agreement and their respective rights against one another under this Agreement shall be cancelled (being the "**Discharged Rights and Obligations**").

19.4 The Purchaser and the New Seller shall assume obligations towards one another and/or acquire rights against one another which are the same as the Discharged Rights and Obligations except that the rights and obligations shall exist between the Purchaser and the New Seller rather than between the Purchaser and the Existing Seller.

19.5 A transfer in accordance with this Clause 19 (*Transfer and assignment*) shall be effective on the first day after the date of delivery of such Novation Certificate to the Purchaser.

19.6 The Seller may assign by way of security to, or grant a security interest in favour of, any Lenders of all of its rights and interests under or pursuant to this Agreement and the Related Agreements to which the Purchaser is party.

## 20 **Minimum Interests**

Subject to the enforcement of any security by any Lenders, the Seller shall procure that the Anchor Sponsor, or where there is more than one Anchor Sponsor, each of its Anchor Sponsors at all times from the date of this Agreement until the second anniversary after the Commercial Operations Date continues to hold, directly or indirectly, the Minimum Interest.

## 21 **Dispute resolution**<sup>44</sup>

### 21.1 **General**

**21.1.1** Any dispute, claim, difference or controversy arising out of, relating to or having any connection with this Agreement, including any dispute as to its existence, validity, interpretation, performance, breach or termination or the consequences of its nullity and any dispute relating to any non-contractual obligations arising out of or in connection with it, shall be considered a dispute for the purposes of this Clause 21 (*Dispute resolution*) (a "**Dispute**").

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<sup>44</sup> **Note:** Please refer to the drafting notes for a discussion of Fast-Track Adjudication Provisions and Process Agent clause which may be added to this Clause and which should be considered on a project-by-project basis.

21.1.2 This Clause 21 (*Dispute resolution*) shall be governed by (and shall be construed in accordance with) English law.<sup>45</sup>

## 21.2 Amicable resolution

21.2.1 In the event of a Dispute, a Party may provide written notice of that Dispute to the other Party in accordance with Clause 22 (*Notices*) (the "**Dispute Notice**"). The Parties shall have a period of thirty (30) Days following the date of a Dispute Notice to enter into negotiations to resolve the Dispute during which they shall refer the Dispute to such representatives or senior executives of the Parties that each Party deems to have sufficient seniority, experience, power, authority and knowledge in respect of this Agreement to resolve such Dispute.

21.2.2 If the Dispute is not resolved within the thirty (30) Day period referred to in Clause 21.2.1 above, or such further period as the Parties may agree in writing, regardless of whether any attempt has been made to resolve the Dispute, subject to Clause 21.3 (*Expert determination*), the Dispute shall be referred to and finally resolved by arbitration in accordance with Clause 21.4 (*Arbitration*).

## 21.3 Expert determination

21.3.1 A Dispute shall, at the request of either Party, be referred to an Expert in accordance with this Clause 21.3 (*Expert determination*) if:

- (i) the Parties are not able to agree under Clause 21.2 (*Amicable resolution*) on an amicable resolution to such Dispute; and
- (ii) this Agreement expressly provides that such Dispute shall be referred to an Expert (a "**Matter for Expert Determination**").

21.3.2 A Matter for Expert Determination shall be referred, at the request of either Party, to an independent Expert appointed in accordance with the procedure set out in Clause 1.1 (*Definitions*).

21.3.3 The Parties shall request that the Expert determine the Matter for Expert Determination within 30 days of receiving the reference or as soon as practicable thereafter.

21.3.4 If the Expert has been appointed, but is unable or unwilling to complete the reference, another Expert shall be appointed in accordance with the procedure set out in Clause 1.1 (*Definitions*).

21.3.5 The Expert shall act as an expert and not as an arbitrator.

21.3.6 The Parties shall have the right to make representations and submissions to the Expert. There shall be no formal hearing.

21.3.7 The Expert shall have power to request any Party to provide him with such statements (which shall be written unless otherwise specifically required) or documents or information within their control as he may determine necessary and

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<sup>45</sup> **Note:** The governing law specified in this Clause 21.1.2 should align with the country of the seat of the arbitration (as specified in Clause 21.4.4) and the jurisdiction of the courts that would hear any disputes relating to arbitration (Clause 21.6) (i.e. all three of these clauses should be aligned) and such choice and alignment may be considered independently of the governing law of the agreement specified in Clause 23.9.

the Parties shall comply with any such request in accordance with the timeframes set out by the Expert or in the absence of such timeframes, in a timely manner as required to enable the Expert to determine the Dispute in accordance with Clause 21.3.3.

**21.3.8** The Expert shall give his decision in writing and such decision shall be final and binding on the Parties (save in the case of fraud or manifest error) and not subject to any appeal.

**21.3.9** If the Expert decides that a sum is due and payable by one Party to another Party, then:

- (i) any such sum shall be due and payable within seven days of receipt by the Parties of written notice of such decision, unless the Expert decides otherwise; and
- (ii) interest shall accrue at the Interest Rate plus two per cent. in respect of late payment.

**21.3.10** The Expert shall determine how and by whom the costs of the determination, including the fees and expenses of the Expert, are to be paid. Pending the Expert's decision as to the costs, the fees and expenses of the Expert shall be borne equally by the Parties.

#### 21.4 Arbitration

**21.4.1** Subject to Clauses 21.2 (*Amicable resolution*) and 21.3 (*Expert determination*), either Party may, by written notice to the other Party, require that any Dispute shall be referred to and finally resolved by arbitration conducted under the rules of the International Chamber of Commerce (such version as is in force at the time of the Dispute, the "**Rules**").

**21.4.2** The Rules are incorporated by reference into this Clause 21.4 (*Arbitration*) and capitalised terms used in this Clause 21.4 (*Arbitration*) which are not otherwise defined in this Agreement have the meanings given in the Rules.

**21.4.3** The number of arbitrators shall be three.

**21.4.4** The seat or legal place of arbitration shall be London. Without prejudice to the provisions of this Clause, the Parties shall be free to agree a mutually convenient and suitable location for the arbitration hearings. Failing such an agreement by the Parties, any hearings shall take place in London.

**21.4.5** The language used in the arbitral proceedings shall be English. All documents submitted in connection with the proceedings shall be in the English language, or, if in another language, accompanied by an English translation.

**21.4.6** Service by the Secretariat of any Request for Arbitration made pursuant to this Clause shall be at the address given for the sending of notices under this Agreement at Clause 22 (*Notices*) and in the manner provided for in that Clause.

**21.5 Consolidation of connected disputes**

**21.5.1** In accordance with the Rules, Disputes may be resolved in a single arbitration together with 'Disputes' (as defined in the Government Support Agreement) arising out of the Government Support Agreement.

**21.5.2** Pursuant to Article 10(a) of the Rules, the Parties agree to the consolidation of any two or more arbitrations commenced pursuant to this Clause 21 (*Dispute resolution*) and/or the arbitration agreement contained in the Government Support Agreement into a single arbitration, as provided for in the Rules.

**21.5.3** The parties to the Government Support Agreement shall be deemed to have agreed to be bound by the provisions of this Clause 21.5 (*Consolidation of connected disputes*).

**21.6 Jurisdiction**

Each Party irrevocably submits to the non-exclusive jurisdiction of the courts of England to support and assist the arbitration pursuant to Clause 21.4 (*Arbitration*) and Clause 21.5 (*Consolidation of connected disputes*) including, if necessary, the grant of interlocutory relief pending the outcome of that process.

**21.7 Waiver of sovereign immunity<sup>46</sup>**

**21.7.1** The Purchaser agrees that the execution, delivery and performance by it of this Agreement and any other Project Agreement to which it is a party constitutes its private and commercial acts.

**21.7.2** The Purchaser irrevocably waives any claim to immunity in relation to any claim or proceeding arising out of or connected with this Agreement in respect of itself and its assets (presently owned or subsequently acquired and whether those assets are related to this Agreement or not), including immunity from:

- (i) jurisdiction of any court or tribunal;
- (ii) service of process;
- (iii) injunctive or other interim relief, or any order for specific performance or recovery of land;
- (iv) recognition and/or enforcement of any court and/or arbitral decision; and
- (v) any process for execution of any award or judgment against its property.

**21.7.3** In addition, in respect of any proceedings arising out of or connected with the enforcement and/or execution of any award or judgment made against it, the Purchaser hereby submits to the jurisdiction of any court in which any such proceedings are brought.

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<sup>46</sup> **Note:** Teams are advised to check with local counsel whether the Purchaser has sovereign immunity.

## 22 Notices

### 22.1 Writing and delivery

Except for day-to-day operational communications, any notice or other communication in connection with this Agreement (each, a "**Notice**") shall be in writing, in English and delivered by email, hand or courier using an internationally recognised courier company.

### 22.2 Addresses

**22.2.1** A Notice to the Seller shall be sent to the address specified in Section A (*Seller Details*) or Part I (*General*) of Schedule 1 (*Seller specific information*), or such other person or address as the Seller may notify to the Purchaser from time to time.

**22.2.2** A Notice to the Purchaser shall be sent to the address specified in Section B (*Purchaser Notice Details*) of Schedule 2 (*Project specific information*), or such other person or address as the Purchaser may notify to the Seller from time to time.

### 22.3 Time of receipt

A Notice shall be effective upon receipt and, for these purposes, shall be deemed to have been received (and if sent by more than one means, upon the earliest to occur of):

**22.3.1** at the time of delivery, if delivered by hand or courier;

**22.3.2** at the time of transmission in legible form, if delivered by fax; or

**22.3.3** at the time of an automated read-receipt or manual response, if sent by email.

## 23 General

### 23.1 Invalidity

**23.1.1** If any provision in this Agreement shall be held to be illegal, invalid or unenforceable, in whole or in part, the provision shall apply with whatever deletion or modification is necessary so that the provision is legal, valid and enforceable and gives effect to the commercial intention of the Parties.

**23.1.2** To the extent it is not possible to delete or modify the provision, in whole or in part, under Clause 23.1.1, then such provision or part of it shall, to the extent that it is illegal, invalid or unenforceable, be deemed not to form part of this Agreement and the legality, validity and enforceability of the remainder of this Agreement shall, subject to any deletion or modification made under Clause 23.1.1, not be affected.

**23.1.3** The Parties shall negotiate in good faith with a view to agreeing one or more provisions which may be substituted for any invalid, illegal or unenforceable provision and produce as nearly as is practicable in all the circumstances the appropriate balance of the commercial interests of the Parties.

23.2 **No partnership**

Nothing in this Agreement shall be deemed to constitute a partnership between the Parties or constitute either Party the agent of the other Party for any purpose.

23.3 **Entire agreement**

**23.3.1** This Agreement, the Related Agreements and all other documents entered into pursuant to this Agreement contains the whole agreement between the Parties relating to its subject matter at the date of this Agreement to the exclusion of any terms implied by law which may be excluded by contract and supersedes any previous written or oral agreement between the Parties in relation to the matters dealt with herein or therein.

**23.3.2** Each Party agrees and acknowledges that in entering into this Agreement, the Related Agreements and all other documents entered into pursuant to this Agreement, it is not relying on any representation, warranty or undertaking not expressly incorporated herein or therein.

**23.3.3** Nothing in this Clause 23.3 (*Entire agreement*) excludes or limits any liability for fraud.

23.4 **Variation**

No variation of this Agreement shall be effective unless in writing and signed by or on behalf of each Party.

23.5 **Waiver**

**23.5.1** No failure or delay by either Party in exercising any right or remedy provided under this Agreement shall operate as a waiver of it, nor shall any single or partial exercise of any right or remedy preclude any other or further exercise of it or the exercise of any other right or remedy.

**23.5.2** Any waiver of a breach of this Agreement shall not constitute a waiver of any subsequent breach.

23.6 **Further assurance**

Each Party shall, and shall use reasonable endeavours to procure that any necessary third party shall, from time to time, execute such documents and do such acts and things as the requesting Party may reasonably require for the purpose of giving the full benefit of this Agreement to the requesting Party.

23.7 **Counterparts**

This Agreement may be entered into in any number of counterparts, all of which, taken together, shall constitute one and the same instrument. Any Party may enter into this Agreement by executing any such counterpart.

23.8 **Contracts (Rights of Third Parties) Act 1999**

A person who is not a Party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of, or enjoy any benefit under, this Agreement.

23.9 **Governing law**

This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.

23.10 **Language**

Except where stated elsewhere in this Agreement or where agreed in writing by the Purchaser all official Project correspondence and documentation including design documents, drawings, and manuals shall be in the [English]<sup>47</sup> language.

**In witness** whereof this Agreement has been executed on the date first stated above.

Executed by \_\_\_\_\_ (as the **SELLER**) acting by:

.....

Name:

Title:

.....

Name:

Title:

Executed by [**NAME OF PURCHASER**] (as the **PURCHASER**) acting by:

.....

Name:

Title:

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<sup>47</sup> **Note:** To be the same language as that of the Agreement.

.....

Name:

Title:

**Schedule 1 Seller specific information**

*Note: The information in this Schedule is to be completed by bidders as part of their proposal under the RFP.*

**Part I - GENERAL**

**Section A. Seller Details**

*Note: Where the entity that is intended to be the Seller for the purposes of the Project has not yet been incorporated, please insert the details of the Lead Sponsor. If selected as the winning bidder, this Agreement should then be transferred following incorporation of the relevant entity, in accordance with the transfer provisions in Clause 19 (Transfer and assignment).*

<b>Seller details:</b>	Name: [●] Legal status: [●] Country of incorporation: [●] Registered office: [●] Registered number: [●]
<b>Seller details: notice</b>	Address: [●] Facsimile: [●] Email: [●] Attention: [●]

**Section B. Seller Information**

*Note to Bidders: Where there is a single Anchor Sponsor, this entity should also be designated as the Lead Sponsor.*

1	<b>Anchor Sponsor(s) and percentage beneficial economic interests at the Effective Date</b>	Name: [●] [Name: [●]] [Name: [●]]	Interest: [●] per cent. Interest: [●] per cent. Interest: [●] per cent.
2	<b>Lead Sponsor</b>	Name: [●]	

**Section C. Estimated PV Plant Performance Ratio**

1 <sup>st</sup> year after Commercial Operations Date		
Month	PR (%)	Average PV module temperature (°C)
January		

1 <sup>st</sup> year after Commercial Operations Date		
Month	PR (%)	Average PV module temperature (°C)
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		
<b>Annual average PR as at Commercial Operations Date: [●] %</b>		
<b>Degradation factor: [●]</b>		

**[Section D. Qualifying Credit Enhancement]**

<b>Does the Seller require the Purchaser to procure Qualifying Credit Enhancement?</b>	[Yes / No]
<b>Term of Qualifying Credit Enhancement<sup>48</sup></b>	[ ] years

<sup>48</sup> **Note:** Duration to be confirmed at country level based on LC availability. IBRD payment guarantees, and IDA payment guarantees on non-concessional terms, are presently subject to a 20-year maturity limit, and IDA payment guarantees on concessional terms are presently subject to maturity limits ranging from 30 to 40 years, depending on the member country. These maturity limits are subject to change and may be revised from time to time. Furthermore, the PPA is drafted assuming that the term of any Guaranteed LC will not be less than the term of the Qualifying Credit Enhancement.

**Part II – Tariff Information<sup>49</sup>**

*Note: The Seller will not be entitled to any compensation on transfer of the Purchaser Interconnection Facilities to the Purchaser. The costs of constructing the Purchaser Interconnection Facilities (and of constructing and operating the Complex) will be compensated through the tariff payment.*

Energy Charge:	[●] <sup>50</sup> (US\$ <sup>51</sup> /MWh) (excluding VAT)
Capacity Charge:	[●](US\$/MWh) (excluding VAT)

In the event that the Effective Date shall occur after the original Longstop Effective Date as set forth in Section A (*General*) of Schedule 2 (*Project specific information*) (for the avoidance of doubt without considering any adjustments made to the Longstop Effective Date pursuant to Clause 2.4 (*Non-fulfilment*) or Clause 14.5 (*Relief from liability and extensions of time*)), then either the Seller or the Purchaser may require the Energy Charge and/or the Capacity Charge to be adjusted to account for any change in Relevant Swap Rate (as defined below) between the time of the original Longstop Effective Date and the actual Effective Date by increasing or decreasing the Energy Charge and/or the Capacity Charge by the percentage corresponding to the relevant change in Base Rate as set forth in the chart in Schedule 17 (*Potential Energy Charge and/or Capacity Charge Adjustment Table*).

For purpose of such adjustment the "Relevant Swap Rate" shall be the swap equivalent rate on each of the two relevant dates published by a source recognized as an international market authority for the proposed currency, interest rate basis and tenor that is closest to the weighted average loan-life (WAL) of the long-term project debt.

As soon as practicable after requiring the Energy Charge and/or the Capacity Charge to be adjusted in accordance with the foregoing procedure, the party requesting such adjustment shall notify the other party, in writing, of (i) the Change in Base Rates, including the two published rates used to determine such amount and (ii) the Energy Charge and/or the Capacity Charge. The Purchaser shall take, or provide all required assistance for the Seller to take, such actions as may be required to have such adjusted Energy Charge and/or Capacity Charge approved by any relevant Government Authority.

**Permitted Outages**

*Note: The Seller will be entitled to receive payment of the Capacity Charge for the Available Storage Capacity, notwithstanding that the BESS is not available during the Permitted Scheduled Outage or Permitted Unscheduled Outage.*

The Purchaser will pay the Seller the Capacity Charge for the Available Storage Capacity, despite a Permitted Scheduled Outage or Permitted Unscheduled Outage subsisting.

<sup>49</sup> **Note:** Please refer to drafting notes for discussion of tariff indexation and exclusion of VAT, if required.

<sup>50</sup> **Note:** Teams to consider incorporation of the following in this schedule: "In the event of an extension to the Longstop Effective Date pursuant to the terms of the Agreement, either party shall have the right to make a claim for an adjustment to the Energy Charge and Capacity Charge to account for the additional cost or savings resulting from any change to the available swap spread for hedging the benchmark interest rate for the term of the financing as may occur between the date of the original Longstop Effective Date and the date that the Effective Date is achieved."

<sup>51</sup> **Note:** Teams may consider incorporating a local currency component of the tariff in consultation with the World Bank team. However, it needs to be noted that establishing the appropriate proportion of tariff in local currency needs to be carefully considered and informed by due diligence to match local currency capex/opex costs and may require further consultation to ensure that they are still able to maintain their offer of financing. Further consideration to the local currency component of the tariff is included in the drafting notes.

Permitted Scheduled Outage	[●] hours per Contract Year. <sup>52</sup>
Permitted Unscheduled Outage	[●] hours per Contract Year.

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<sup>52</sup> **Note:** Please discuss with the technical teams for the relevant project whether the number of hours of Permitted Outages should vary across Contract Years.

**Part III– Key Components and Contractors**

**1. Key Components**

*Tables to be completed with detail submitted in technical bid.*

**1.1 PV Modules**

<b>Option</b>	<b>Manufacturer</b>	<b>Model</b>	<b>Additional Comments</b>
1			
2			
3			

**1.2 Inverters**

<b>Option</b>	<b>Manufacturer</b>	<b>Model</b>	<b>Additional Comments</b>
1			
2			
3			

**1.3 Mounting Structures / Trackers**

<b>Option</b>	<b>Manufacturer</b>	<b>Model</b>	<b>Additional Comments</b>
1			
2			
3			

**1.4 Power Transformers**

<b>Option</b>	<b>Manufacturer</b>	<b>Model</b>	<b>Additional Comments</b>
1			
2			
3			

**1.5 BESS Batteries**

<b>Option</b>	<b>Manufacturer</b>	<b>Model</b>	<b>Additional Comments</b>
1			
2			
3			

**1.6 BESS Inverters**

<b>Option</b>	<b>Manufacturer</b>	<b>Model</b>	<b>Additional Comments</b>
1			
2			
3			

**2. Contractors**

*Tables to be completed with detail submitted in technical bid.*

**2.1 Construction Contractors**

Option	Name of Contractor	Name of Specialized Battery Subcontractor(s), if any	Additional Comments
1			
2			
3			

**2.2 Battery Maintenance Contractors**

Option	Name of Contractor	Additional Comments
1		
2		
3		

**2.3 O&M Contractors**

Option	Name of Contractor	Additional Comments
1		
2		
3		

**3. [Site Layout Drawings**

[•]

**3.1 3.1 Scale Drawing**

[•]

**3.2 3.2 Electrical single line diagram**

**[Single line diagram can be included as an appendix]**

**3.3 3.3 SCADA and Telecommunication Diagram – Interface with Grid Operator]**

**Schedule 2  
Project specific information**

**[Note: The information in this Schedule is to be completed by the Government / Purchaser and its advisors prior to release of the PPA to bidders under the RFP.]**

The following Project-specific data shall apply in this Agreement:

**Section A. General**

1.	<b>Access Indemnity Maximum Amount</b>	USD <input type="checkbox"/>	
2.	<b>Central Bank</b>	<input type="checkbox"/>	
3.	<b>PV Plant Contracted Capacity</b>	<input type="checkbox"/> MW (AC)	
4.	<b>BESS Contracted Capacity</b>	<b>Contract Year</b>	<b>BESS Contracted Capacity (MW)<sup>53</sup></b>
		1	[x]
		2	[x]
		3	[x]
		4	[x]
		5	[x]
		6	[x]
		7	[x]
		8	[x]
		9	[x]
		10	[x]
		11	[x]
		12	[x]
		13	[x]
		14	[x]
15	[x]		
5.	<b>Decreased Costs Threshold</b>	USD <input type="checkbox"/>	
6.	<b>Grid Code</b>	<input type="checkbox"/> [title of document]	

<sup>53</sup> **Note:** Degradation cap to be set at approximately no more than 20% over the 15-year term. Please seek advice from your technical team on these metrics.

7.	<b>[Intentionally Blank]</b>	USD [●]
8.	<b>Increased Costs Threshold</b>	USD [●]
9.	<b>Industry Documents</b>	The following Industry Documents are applicable as at the date of this Agreement:  [titles of document]
10.	<b>Interest Rate</b>	[2] per cent. per annum
11.	<b>Land Rights</b>	[describe relevant titles and rights]
12.	<b>Longstop Effective Date</b>	[●] days after the date of this Agreement <sup>54</sup>
13.	<b>PV Plant Minimum Acceptance Capacity</b>	[75 - 80] per cent. of the PV Plant Contracted Capacity
14.	<b>BESS Minimum Storage Capacity</b>	[x]% of the BESS Contracted Capacity
15.	<b>Performance Bond Amount</b>	[20] <sup>55</sup> per cent. of the Project's total capital expenditure
16.	<b>Project Development Cost Amount</b>	USD [●]
17.	<b>Original Scheduled Commercial Operations Date</b>	[●] days after the Effective Date
18.	<b>Related Agreements</b>	(i) the Government Support Agreement; (ii) the Land Agreement[s]; (iii) any Direct Agreement; (iv) the Escrow Letter; (v) the PIF Land Agreement; (vi) the PIF Transfer Agreement; (vii) any Letter of Credit; (viii) any Guaranteed Letter of Credit; (ix) any documentation in connection with any Qualifying Credit Enhancement entered into by the Seller, the Purchaser, an LC Issuing Bank or the

<sup>54</sup> **Note:** This date should be set following careful review and consideration of the time necessary to satisfy each of the Conditions Precedent set forth in Schedule C below, especially as Section 2.4 provides only a limited time period and limited grounds for extending this date.

<sup>55</sup> **Note:** The amount for the performance bond should be between 10% to 20% of total project CAPEX.

		<p>guarantor under any Qualifying Credit Enhancement;</p> <p>(x) [other agreements, if applicable]</p>
19.	<b>Required Liquidity Support Amount</b>	USD [●]
20.	<b>Site</b>	[●]
21.	<b>Threshold Loss Event</b>	75 per cent. or more of the Complex by value

**Section B. Purchaser Notice Details**

Purchaser:	Name: [●] Address: [●] Facsimile: [●] Email: [●] Attention: [●]
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**Section C. Conditions Precedent**

No	Condition	Document Signatories (where applicable)	Responsibility
1.	The issuance of the Legal Opinion	Provider of Legal Opinion	Purchaser
2.	Where the Purchaser intends to discharge its liquidity support obligations by way of funding an Escrow Account:  (a) the establishment of the Escrow Account;  (b) the execution of the Escrow Letter by the Escrow Agent, the Purchaser and the Seller and such agreement is in full force and effect, but for the effectiveness of this Agreement; and  (c) evidence that the balance standing to the credit of the Escrow Account is at least equal to the Required Liquidity Support Amount.	Escrow Agent  Purchaser  Seller	Purchaser  Seller
3.	Where the Purchaser intends to discharge its liquidity support obligations by way of a Letter of Credit, the procurement by the Purchaser of a Letter of Credit with a face value at least equal to the Required Liquidity Support Amount and such instrument would be in full force and effect but for the effectiveness of this Agreement.	LC Issuing Bank	Purchaser
4.	Where the Seller has indicated in Part I ( <i>General</i> ) of Schedule 1 ( <i>Seller specific information</i> ) that it requires the provision of a Qualifying Credit Enhancement, execution of all documentation and satisfaction of all conditions necessary for	All signatories other than the Seller  Seller	Purchaser  Seller

	the Qualifying Credit Enhancement to be effective, including execution of any relevant Guaranteed Letter of Credit (provided any ability to draw on such instrument shall be subject to the terms of Clause 13.1.1)).		
5.	The execution of the Land Agreement[s] by the Seller and [the Government / the Purchaser] and such agreement is in full force and effect	[Government / Purchaser / Government Related Party / other] Seller	Purchaser Seller
6.	The execution of the PIF Land Agreement by the Seller and [the Government / the Purchaser] and such agreement is in full force and effect	[Government / Purchaser / Government Related Party / other] Seller	Purchaser Seller
7.	The execution of the Government Support Agreement by the Seller and the Government and such agreement is in full force and effect	Government Seller	Purchaser Seller
8.	The completion of an ESIA in connection with the Project (as further described in Clause 2.6 ( <i>Environmental and Social Conditions to Effectiveness</i> ))	-	[Purchaser]/[Seller] <sup>56</sup>
9.	[The completion of a [RAP]/[LRP] in connection with the Project (as further described in Clause 2.6 ( <i>Environmental and Social Conditions to Effectiveness</i> )) ]		[Purchaser]/[Seller] <sup>57</sup>
10.	Compensation and, where applicable, resettlement sites and moving allowances have been provided to Project affected persons, in each case, as provided in the [RAP]/[LRP]		[Purchaser]/[Seller] <sup>58</sup>
11.	[The issuance of the [set out list of each consent required to commence construction of Project]]	-	Seller
12.	Where the Seller intends to enter into Financing Agreements in respect of the Project, the execution of equity commitment and Financing Agreements	-	Seller

<sup>56</sup> Please consult with an E&S specialist as to whether the Purchaser or the Seller shall be responsible for the ESIA, as this may differ on a project by project basis.

<sup>57</sup> Please consult with an E&S specialist as to whether a RAP/LRP is needed and if so, whether the Purchaser or the Seller shall be responsible for the RAP/LRP, as this may differ on a project by project basis.

<sup>58</sup> Please consult with an E&S specialist as to whether the Purchaser or the Seller shall be responsible for implementation of the RAP/LRP.

	and all conditions precedent to the first drawdown of the credit facilities under the Financing Documents having been satisfied or waived in accordance with the terms thereof (it being understood that if the sole outstanding condition preventing such first drawdown is the achievement of the Effective Date under this Agreement and/or the GSA, this condition shall be deemed satisfied).		
13.	(i) Notifications from the Seller to the Purchaser of the identity of the Construction Contractor and the O&M Contractor; (ii) Battery Maintenance Contractor and/or (iii) Confirmations from the Seller to the Purchaser that it or its affiliates will carry out any such functions in-house (provided that doing so would be permitted under the RFP)	Seller	Seller
14.	[The issuance of a notice to proceed under the Construction Contract] <sup>59</sup>	[Seller]	[Seller]
15.	The execution of any Direct Agreement by the Purchaser, the Government, the Seller and a security agent on behalf of any Lenders	Purchaser Government Seller Security agent on behalf of Lenders	Purchaser Seller
16.	[Intentionally Blank]	-	Seller
17.	Where the Seller is not entering into Financing Agreements in connection with the Project, confirmation of the amounts in part II ( <i>Forecast Equity Amount and Maximum Equity</i> ) of schedule 1 ( <i>Seller specific information</i> ) of the Government Support Agreement or agreement between the Seller and the Government as to alternative projections	-	Seller
18.	The delivery of the Performance Bond to the Purchaser	-	Seller
19.	[other]	[•]	[•]

<sup>59</sup> **Note:** This CP may not always be suitable or required. Please refer to drafting notes for further details.

**Section D. Acceptable Independent Engineers**

Independent Engineer:	(i) <input type="checkbox"/> ; (ii) <input type="checkbox"/> ; (iii) <input type="checkbox"/> ; (iv) <input type="checkbox"/>
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**Schedule 3**  
**Complex – Minimum functional specifications and standards<sup>60</sup>**

**1 General Technical Requirements**

1.1 The Project shall be designed, installed, commissioned, tested and operated in accordance with Prudent Utility Practice, the Laws of [country], the WB Performance Standards as further guided by the EHS Guidelines, the Industry Documents and relevant international standards including but not limited to those listed in Annex A (*Applicable Norms & Standards*) of this Schedule 3. The site layout and electrical design of the plant shall be in accordance with Section 1 (Key Components) and Section 2 (Contractors) of Part III (*Key Components and Contractors*) of Schedule 1 (*Seller specific information*) unless otherwise agreed with the Purchaser in its absolute discretion.

1.2 The Project shall in addition comply with the following general technical requirements:

All equipment forming part of the PV Plant itself shall be new and unused and manufactured by reputable manufacturers with experience in at least two PV projects of similar size, subject to any stricter requirements set out in this Agreement.

**1.2.1** All equipment forming part of the BESS itself shall be new and unused and manufactured by reputable manufacturers with experience in at least [two] battery storage projects of similar size, subject to any stricter requirements set out in this Agreement. The Project shall be designed:

- (i) with a design life of at least 25 years for the PV Plant and of at least 15 years for the BESS;
- (ii) for the climatic conditions and soil conditions at the Site;
- (iii) for compliance with all applicable environmental and social regulations; and
- (iv) to enable compliance with all the requirements included in this Agreement, in particular the metering, testing and operational requirements.

**1.2.2** The Project shall adopt technically and financially feasible measures to avoid, and where not possible minimise, adverse effects on water resources used by the Project and promote efficient water use and sustainable sourcing of water.

**1.2.3** The Project shall develop a mechanism to ensure safe management of discarded / broken PV panels through a take-back agreement with the producers/providers and/or promote safe recycling and reuse within the Country in line with the Laws of [country] and WB Performance Standards as further guided by EHS Guidelines.

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<sup>60</sup> **Note:** Subject to technical review as to whether any other previously included specifications need to be updated to reflect the PV + BESS structure.

## 2 PV Modules<sup>61</sup>

2.1 The PV modules shall be one of the module types detailed in Section 1 (*Key Components*) of Part III (*Key Components and Contractors*) of Schedule 1 (*Seller specific information*) unless otherwise agreed with the Purchaser in its absolute discretion.

2.2 The following minimum guarantees shall be applicable:

**2.2.1** Product warranty of ten years; and

**2.2.2** Linear degradation warranty as follows:

- (i) for any technology, a constant degradation of up to 0.8% per year from year 1 to year 20, or up to 3% in year 1 and up to 0.7% from year 2 to year 25.
- (ii) for monocrystalline modules, up to 6.3% by year 5 and up to 0.7% per year from year 6 to year 25, and

with, in either case, a guaranteed power output after 25 years no less than 80% of the initial nominal power.

2.3 All PV modules shall be of the same type and from a single manufacturer. They shall be manufactured in PV module manufacturing facilities certified according to:

**2.3.1** ISO 9001 – Quality Management Systems; and

**2.3.2** ISO 14001 – Environmental Management Systems.

## 3 Inverters

3.1 The inverters shall be one of the inverter models detailed in Section 1 (*Key Components*) of Part III (*Key Components and Contractors*) of Schedule 1 (*Seller specific information*) unless otherwise agreed with the Purchaser in its absolute discretion.

3.2 The inverters must have a product warranty of at least 10 years and a guarantee against manufacturing defects of at least 5 years.

3.3 The inverters shall be designed and constructed for continuous operation under the climatic and environmental conditions prevailing on site. According to the PV module manufacturer's requirements, the grounding of negative/positive pole shall be provided.

3.4 The protection system shall be selected and coordinated in line with the requirements of the Grid System operator. Each inverter shall be connected to the earthing protection system by an appropriate arrangement.

3.5 The inverters shall be capable of automatic synchronisation with the Grid System. A proven communication protocol compatible with the plant control system and Grid System operator's communication system shall be provided.

3.6 The inverter shall be either (i) indoor type and located inside an inverter room or (ii) a proven outdoor type with a minimum protection rating of IP65. If outdoor type, the inverters are to be provided within an inverter station designed to withstand at least 50°C of external ambient

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<sup>61</sup> **Note:** To be assessed by the technical team in the context of any additional requirement which may be relevant due to PV + BESS nature of the project.

temperature. The air flow and cooling design of the inverter station should be calculated to avoid overheating of the inverters. The inverters shall be mounted to prevent water or dust ingress, and shaded against direct sunlight. Temperature and moisture content control should be provided.

3.7 All inverters shall be of the same type and from a single manufacturer. They shall be manufactured in inverter manufacturing facilities certified according to:

**3.7.1** ISO 9001 – Quality Management Systems; and

**3.7.2** ISO 14001 – Environmental Management Systems.

#### **4 PV Module Mounting Structure**

4.1 The PV module mounting structure shall be one of the mounting structure types detailed in Section 1 (*Key Components*) of Part III (*Key Components and Contractors*) of Schedule 1 (*Seller specific information*) unless otherwise agreed with the Purchaser in its absolute discretion.

4.2 The PV module mounting structure shall be either fixed or single-axis tracking. The design and construction of the mounting structure shall take into account the following:

**4.2.1** The mounting structure shall be compatible with the PV modules.

**4.2.2** The mounting system (fixed and tracking) shall be designed to withstand dead load of modules and hardware and local environment conditions such as wind loads, seismic loads and snow loads (if applicable).

**4.2.3** The mounting structure shall be designed to prevent bimetallic corrosion between different metals.

**4.2.4** In the case of tracking systems, trackers shall be (i) provided with protection (wind alarm, movement to stow position) against wind speeds higher than the design conditions and (ii) capable of being operated manually.

**4.2.5** Structural supports shall be constructed at a suitable PV module height to both prevent shadows over adjacent modules and to provide enough ventilation around the modules.

**4.2.6** Structural supports shall be manufactured to withstand high levels of corrosion by using aluminium or hot-dip galvanised steel, bolts and screws. Galvanizing shall be sufficient to provide corrosion protection for the design life of the plant.

**4.2.7** The mounting system shall have a ten-year latent defect warranty.

**4.2.8** If trackers are used, the tracking system shall have a defect warranty of at least 5 years.

**4.2.9** The structure will be based on monopoles with piling or concrete foundations or special ramming profiles (depending on soil characteristics). Bearing capacity tests or pull-out tests will be conducted to demonstrate suitability of the approach. The pile design and piling method proposed should be appropriate for piles with longer below-ground length than assumed in the technical bid, in case this is required due to unexpected soil conditions.

- 4.2.10 Piles (if any) shall be constructed of either steel or concrete. If steel is specified, the piles shall be manufactured to withstand increased anticipated levels of corrosion by using hot-dip galvanised steel.
- 4.2.11 The design pile length or footing size shall be confirmed by calculation, based on site-specific soil investigation test information.
- 4.2.12 The mounting structure shall be provided with the adequate size/number of the cable ducts for the installation of the cables between PV modules and the junction boxes or inverters.
- 4.2.13 The mounting structure shall be connected to the earthing protection system by an appropriate arrangement.

## 5 Power Transformers

- 5.1 The power transformers shall be one of the transformer models detailed in Section 1 (*Key Components*) of Part III (*Key Components and Contractors*) of Schedule 1 (*Seller specific information*) unless otherwise agreed with the Purchaser in its absolute discretion.
- 5.2 The power transformers shall be:
  - 5.2.1 For ratings above 2.5MVA – outdoor, oil-filled type.
  - 5.2.2 For ratings below 2.5MVA – oil-filled type or dry-cast resin type.
- 5.3 In case oil-filled transformers are used, the relevant environmental, fire safety and local regulations and WB Performance Standards, as further guided by the EHS Guidelines, shall be complied with.
- 5.4 All oil-filled transformers shall be complete with oil conservator, oil level indication/alarm, silica gel breather, temperature/alarm/tripping, pressure relief/alarm/tripping, and Buchholz gas and surge protection/tripping/alarm. Oil-insulated transformers shall be installed with oil containment facilities, such as a concrete bund, capable of handling the complete oil content of the transformer in case of leakage. The design of the transformer system installation shall take into account fire and explosion scenarios.
- 5.5 In addition each transformer shall include winding temperature indication with alarm and tripping contacts.
- 5.6 HV transformers shall be equipped with under load tap changers; MV transformers are not required to have under load tap changers. Each transformer shall be rated for full continuous output capacity. The no load voltages, tapping range, impedance and losses shall be selected to enable full output under normal conditions which allow for the highest and lowest system voltage operation and shall not be restricted over the specified ambient range.
- 5.7 The diverter switches of all on load tap changers shall be located in a separate tank from the transformer windings and the oil level maintained from the main tank oil conservator.
- 5.8 Cooling shall be either of ONAN, ONAN/ONAF, ONAN/ONAF/ONAF or ONAN/ONAF/ODAF types, the radiators may be mounted separate from the tank or mounted on the transformer tank.
- 5.9 Approved facilities shall be provided for inspection, testing and maintenance access to the gas and oil-actuated relays and conservators associated with the transformers.

6 **[BESS - Batteries**

6.1 The BESS batteries shall be one of the model types detailed in in Section 1 (*Key Components*) of Part III (*Key Components and Contractors*) of Schedule 1 (*Seller specific information*) unless otherwise agreed with the Purchaser in its absolute discretion.

6.2 [The BESS batteries must use lithium-ion technology.]

6.3 [The following minimum guarantees shall be applicable:

- (i) [specify warranty details]<sup>62</sup> years; and
- (ii) guarantee against manufacturing defects of at least [x] years.

6.4 All batteries shall be of the same type and from a single manufacturer. They shall be manufactured in manufacturing facilities meeting the following standards:

- (i) a [x] year battery manufacturing history;
- (ii) >[x] MW/year manufacturing capacity; and
- (iii) manufacturing facilities certified according to ISO 9001 - Quality Management Systems.]<sup>63</sup>

6.5 The BESS batteries shall be rated to meet the following minimum technical standards:

**[Placeholder for minimum technical standards]<sup>64</sup>**

7 **[Inverters – BESS**

7.1 The inverters at the BESS shall be one of the inverter models detailed in in Section 1 (*Key Components*) of Part III (*Key Components and Contractors*) of Schedule 1 (*Seller specific information*) unless otherwise agreed with the Purchaser in its absolute discretion.

7.2 The inverters must have a product warranty of at least [x] years and a guarantee against manufacturing defects of at least [x] years.

7.3 **They shall be manufactured in inverter manufacturing facilities certified according to:**

ISO 9001 – Quality Management Systems; and

ISO 14001 – Environmental Management Systems.]<sup>65</sup>

8 **Balance of Plant**

The balance of plant equipment shall comply with the following key technical specifications:

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<sup>62</sup> **Note:** To be considered based on requirements for the Project and warranty scope available on the market at the time the PPA is intended to be used.

<sup>63</sup> **Note:** Subject to input from technical team.

<sup>64</sup> **Note:** Subject to input from technical team.

<sup>65</sup> **Note:** Subject to input from technical team.

- String boxes**     **combiner**     The following protection and characteristics shall be included:
- (i) Door switch interlock;
  - (ii) Over-current protection (fuses with disconnect bases);
  - (iii) Over-voltage protection. For DC boxes, PV specific surge arrester type 2 shall be provided;
  - (iv) Earthing bars connected to the PV power plant earthing system;
  - (v) String monitoring device interface with the plant control system and visual alarm in the plant control room in case of abnormal string operation; and
  - (vi) The enclosure shall be rated IP65.
- Cables**
- (i) All Power cables shall be capable of continuous operation at the highest system voltage specified with a maximum conductor temperature of 90°C, under rated conditions and a maximum temperature under fault conditions of no more than 250°C and shall be capable of sustaining maximum through fault current without damage for at least, the duration of the short circuit fault clearance time.
  - (ii) DC cables routed behind a PV array shall be capable of continuous operation at the highest system voltage specified with a maximum conductor temperature of 120°C.
- Medium Voltage / High Voltage switchgear**
- (i) MV switchgear shall be of metal enclosed modular type.
  - (ii) The main compartment shall be insulated in compliance with the 'Insulating Oils and Fuels' section of the WB EHS Guidelines for Electric Power Transmission and Distribution. Circuit breaker extinguishing medium shall be either in compliance with the 'Insulating Oils and Fuels' section of the WB EHS Guidelines for Electric Power Transmission and Distribution.
  - (iii) The HV switchgear shall be based on air insulated systems, under particular site conditions such as high pollution, salinity or reduced space, HV gas insulated switchgear justification shall be considered.
  - (iv) MV/HV switchgear shall be installed within a purpose built prefabricated building or in a dedicated room within the control building built on site, and with specific facilities such as ventilation, fire protection and auxiliary systems.

**Earthing and lightning system**

- (i) The resistance to earth of any part of the earthing system shall not exceed 0.5 ohm, which value shall be demonstrated during construction of the plant.
- (ii) The earthing conductors used shall be adequate to withstand for the maximum system fault current for one second.
- (iii) A lightning protection system for each building, inverter enclosures and the PV module array, especially when frameless modules are used, shall be provided. Each lightning protection system shall be bonded to the main earthing system.

**SCADA system**

The SCADA system shall be capable of:

- (i) Collecting and storing all relevant data required to verify the plant performance and energy output including but not limited to:
- (ii) Current, voltage, instantaneous DC power, and DC energy at string level;
- (iii) Instantaneous AC power, AC energy, frequency at each inverter;
- (iv) Revenue meter readings;
- (v) MPP tracking parameters, voltage and frequency set point, active and reactive power set point;
- (vi) Status and alarms of each inverter;
- (vii) Tracker monitoring; and
- (viii) Meteorological station data (temperature, irradiation, humidity, wind speed, wind direction);
- (ix) Displaying the Project's real time status;
- (x) Monitoring all relevant alarms that require operator intervention;
- (xi) Generating and storing alarms and notifying configured recipients by email;
- (xii) Allowing data transmission via Internet; and
- (xiii) Tie-in with the utility remote dispatch system and be compliant to the Grid Code.

- Meteorological station**
- (i) Weather monitoring shall include one complete meteorological station per 8MW installed DC capacity or a minimum of 2 complete stations for projects less than 8MW installed DC capacity.
  - (ii) The weather station should be equipped with:
    - (a) Secondary standard pyranometers:
      - (A) Two in plane of array, and
      - (B) One on the horizontal plane;
    - (b) Temperature sensors with a minimum accuracy of  $\pm 1^{\circ}\text{C}$  for the expected range:
      - (A) Two to measure cell temperature; and
      - (B) One to measure ambient temperature (shielded ventilated);
    - (c) One anemometer;
    - (d) One humidity sensor; and
    - (e) A data logger.
  - (iii) The meteorological measurement station shall be either connected to a UPS system or be powered by a standalone solar system with its own battery backup.
  - (iv) Valid calibration certificates to be maintained for sensors and performance monitoring equipment.
- Emergency Generator and UPS**
- An emergency diesel generator shall be installed, capable of feeding into the LV grid in case of Grid System failure to power auxiliary loads such a monitoring, communication and site surveillance systems and also to safely stow the trackers.

## 9 Buildings

- 9.1 At least one building shall be provided, which shall house all the functions of operation, maintenance, monitoring and administration for the Project. The building shall provide for all facilities which include, at minimum, air conditioning system, lighting and necessity of electrical facilities, one washing and toilet facility, area for installing control and monitoring system, appropriate size and rack to store fixing devices, special tools, spares and consumable materials necessary in day to day routine operation and maintenance. Car park spaces shall be provided adjacent to the building including visitor parking.
- 9.2 Foundations design shall be performed in accordance with the geotechnical studies, foreseeable climatic and seismic loads at Site, retaining maximum wind speeds recorded in the region and thermal loads caused by expected fluctuations of materials and ambient temperatures.
- 9.3 The minimum design life of all foundations and structural elements shall be 25 years.

9.4 A comprehensive fire detection and alarm system and fire-fighting equipment shall be provided to cover all building and fire risk areas within the power station site.

## 10 Fencing

10.1 A secure boundary fence along the full perimeter of the site with a security gate house at each site entrance should be provided. The installation shall have a gatehouse, area lighting, electrically operated sliding gates and road barriers.

10.2 The perimeter fence shall be galvanized chain link with galvanized steel pipe poles with a minimum height of 2.5 metres. The top of the fence shall be installed with barbed wire with a minimum height of 0.5 metres.

10.3 Internal fences for the security of any particular installations within the site shall be erected complete with gates.

10.4 All fencing, gates, doors, and other similar metallic components should be adequately connected to the earthing system.

## 11 Drainage

11.1 A drainage system should be designed and executed in order to protect the Project from flash floods and erosion but avoid increasing flood risk beyond the site perimeter. The design should be based on the ambient conditions at the Site (climatic and topographical) and the adequacy of drainage for floods should be verified by the correct return period of peak floods in accordance with the hydrology studies. The design shall include segregated drainage systems for the following:

11.1.1 Surface water run-off;

11.1.2 Oily water; and

11.1.3 Domestic and sanitary waste (sewage).

11.2 All drains and liquids discharged from the Project shall be disposed of in a manner in accordance with applicable environmental regulation, including any environmental and social impact assessment for the Project (ESIA), WB Performance Standards as further guided by EHS Guidelines.

## 12 Roads

12.1 Save as specified in the Project Documents, all works related to access and internal roads are the responsibility of the Seller. A traffic management plan should be developed and implemented in accordance with the ESIA, WB Performance Standards as further guided by EHS Guidelines.

12.2 Access roads should be adequate and suitable for the construction and operational phases of the Project and should be designed in consultation with the relevant authorities.

12.3 Internal roads should be adequate and suitable for the operational phase of the Project. All such roads should not be dead end roads, in order to allow vehicles to drive in a loop without having to reverse.

12.4 The roads shall be designed such that the rainwater flows to the longitudinal and/or transversal slope of the roads and is disposed of via the drainage system. A drainage ditch shall be included for all roads.

**13 Site Surveillance**

13.1 Outdoor CCTV cameras shall be provided in order to monitor the whole plant perimeter without dead areas. CCTV cameras shall also be provided at each inverter house and substation. The output of the cameras shall be available on LCD/LED monitor installed in the control room.

13.2 Housing of cameras used for indoor installation shall be of IP 55 whereas outdoor camera housing shall be of IP 66 or equivalent. It should also be protected against lightning.

**14 Site Lighting**

14.1 The primary purpose of lighting is for security (as a deterrent and for security guard patrols). All lighting should be of the column-mounted type controlled via a photoelectric cell with manual override switch. The lighting system shall be designed in order to minimise the shadow cast over the PV modules.

14.2 All lighting shall utilise low loss control gear. Switches must be provided as necessary.

**Annex A : Applicable Norms & Standards<sup>66</sup>**

The list/table of standards below is not an exhaustive list and it will remain the responsibility of the Seller to ensure that the Project complies with this Agreement and the Related Agreements, together with the Laws of [country], Industry Documents and applicable international standards and codes of practice,<sup>67</sup> as might be used in accordance with Prudent Utility Practice, WB Performance Standards as further guided by EHS Guidelines.

All critical equipment shall be designed and manufactured under a quality assurance program in accordance with the latest ISO 9001 and ISO 14001 for environmental management system as per previous annex. This requirement applies to all suppliers and subcontractors involved in the manufacture and installation of equipment.

In the case of a conflict between standards and/or codes, the more onerous shall apply.

Code	Standard title
1	<b>Civil and structural</b>
1.1	<b>Foundations</b>
1.2	<b>Mounting structure</b>
IEC 62093:2005	Balance-of-system components for photovoltaic systems - Design qualification natural environments

<sup>66</sup> **Note:** Subject to technical review. To be updated to reflect any BESS specific requirements.

<sup>67</sup> **Note:** Teams should consider specifying alternative international standards if there are no applicable national standards.

BS EN ISO 14713-1:2009 Zinc coatings — Guidelines and recommendations for the protection against corrosion of iron and steel in structures — Part 1: General principles of design and corrosion resistance

**1.3 Buildings**

**1.4 Fencing**

BS 1722 Fencing

**1.5 Drainage**

BS EN 752 Drain and Sewer System Outside Buildings

**1.6 Roads**

AASHTO American Association of State Highway & Transport (AASHTO) standards

DMRB Design Manual for Road and Bridges (DMRB) standards

**2 Electrical**

**2.1 PV modules**

IEC/EN 61730 Test for electrical safety

IEC/EN 61215 Design qualification and type approval (crystalline)

IEC/EN 61646 Design qualification and type approval (thin film)

IEC 61701 Salt mist corrosion testing of photovoltaic (PV) modules

IEC 62716 Ammonia Resistance test of photovoltaic (PV) modules

IEC 62804 Potential Induced Degradation (PID)

UL 1703 Standard for Flat-Plate Photovoltaic Modules and panels

PVCycle Environmental Certification

ISO 9001 Quality Management Systems

ISO 14001 Environmental Management Systems

**2.2 Inverters**

DIN / VDE 0126-1-1 Automatic disconnection device between a generator and the public low-voltage grid

DIN EN 50178 Electronic equipment for use in power installations

DIN EN 50524 Data sheet and name plate for photovoltaic inverters

EN 50530	Overall efficiency of photovoltaic inverters
EN 61000-6-4/A1	Electromagnetic compatibility (EMC) - Part 6-4: Generic standards - Emission standard for industrial environments
IEC 60146-1-1	Semiconductor convertors - General requirements and line-commutated convertors - Part 1-1: Specifications of basic requirements
IEC 60529	Degrees of protection provided by enclosures (IP code)
IEC 61140	Protection against electric shock - Common aspects for installation and equipment
IEC 61183	Electroacoustics - Random-incidence and diffuse-field calibration of sound level meters
IEC 61683	Photovoltaic systems - Power conditioners - Procedure for measuring
IEC 61000-6-2	Electromagnetic compatibility (EMC) - Part 6-2: Generic standards - efficiency
IEC 62093	Balance-of-system components for photovoltaic systems - Design qualification natural environments
IEC 62109-2	Safety of power converters for use in photovoltaic power systems - Part 2: Particular requirements for inverters
IEC 62116	Utility-interconnected photovoltaic inverters - Testing procedure of islanding prevention measures
IEC 61000-6-2	Electromagnetic compatibility (EMC) - Part 6-2: Generic standards -Immunity for industrial environments
IEC 61400-21	Harmonics
IEC 61727	Photovoltaic (PV) systems. Characteristics of the utility interface
UL 1741	Standard for Safety for Inverters, Converters, Controllers and Interconnection System Equipment for Use With Distributed Energy Resources
BDEW	Grid management (This is a Germany Standard)
ISO 9001	Quality Management Systems
ISO 14001	Environmental Management Systems
<b>2.3</b>	<b>String Combiner boxes</b>
IEC 60529	Specification for degrees of Protection provided by enclosures (IP code)
IEC 60439	Low-voltage switchgear and control-gear assemblies

IEC 60269-6:2010	Low-voltage fuses. Supplementary requirements for fuse-links for the protection of solar photovoltaic energy systems.
IEC 60947-2:2006	Low-voltage switchgear and control gear. Circuit breakers
EN 50548:2011	Junction boxes for photovoltaic modules.

2.4

**Cables**

EN 50288	Cables used in analogue and digital communication and control
IEC 60183	Guide to the selection of high voltage cables
IEC 60189	Low frequency cables and wires with PVC insulation and PVC sheath
IEC 60227	PVC insulated cables of rated voltage up to and including 450/750 V
IEC 60228	Conductors of insulated cables
IEC 60229	Electric cables - Tests on extruded oversheaths with a special protective function
IEC 60230	Impulse tests on cables and their accessories
IEC 60245	Rubber-Insulated Cables
IEC 60287	Calculation of permissible current in cables at steady state rating
IEC 60331	Tests for Electric Cables under Fire Conditions
IEC 60332	Tests for Electric and Optical fibre cables under Fire Conditions
IEC 60502	Power cables with extruded insulation and their accessories for rated voltages from 1kV up to 30kV
IEC 60728	Cable networks for television signals, sound signals and interactive services
IEC 60811	Common test methods for insulating and sheathing materials of electric cables and optical cables
IEC 60840	Power cables with extruded insulation and their accessories for rated voltages above 30 kV up to 150 kV - Test methods and requirements
IEC 60853	Calculation of the cyclic and emergency current rating of cables
IEC 60885	Electrical test methods for electric cables.
IEC 61084	Cable trunking and ducting systems for electrical installations
IEC 61156	Multicore and symmetrical pair/quid cables for digital communications
IEC 61238	Compression and mechanical connectors for power cables for rated voltages up to 30 kV

IEC 61280	Field testing method for measuring single mode fibre optic cable
IEC 61537	Cable management – Cable tray systems and cable ladder systems

## 2.5 **MV/HV switchgear**

IEC 60056	High voltage alternating current circuit breakers
IEC 60185	Current transformers
IEC 60186	Voltage transformers
IEC 60129	Alternating current disconnectors and earthing disconnectors
IEC 60265	High voltage switches
IEC 60282	HV Fuses
IEC 60287	Electric cables - Calculation of the current rating
IEC 60298	Metal-enclosed switchgear for alternating current at rated voltage of over 1 kV and less than or equal to 72.5 kV
IEC 60420	High-voltage alternating current combined fuse-switches and combined fuse-circuit breakers
IEC 60470	High-voltage alternating current contactors
IEC 60694	Specifications common to high voltage switchgear standards
EN 62271	High-voltage switchgear and control gear - Part 1: Common specifications

## 2.6 **Control and protection**

IEC 60050 (488)	International electrotechnical vocabulary chapter 448 – Power system protection
IEC 60255	Measuring relays and protection equipment
IEC 60439	Low voltage switchgear and controlgear assemblies
IEC 60947	Low-voltage switchgear and control gear
IEC 60664	Insulation coordination for equipment within low-voltage systems
IEC 60694	Common Specifications For High-Voltage Switchgear and Controlgear Standards
IEC 60870	Telecontrol equipment and systems
IEC 61140	Protection against electrical shock
IEC 61173	Overvoltage protection for photovoltaic (PV) modules

IEC 61850	Power Utility Automation And Communication
IEC 62271	Standards for high-voltage switchgear and controlgear
IEC 62351	Power System Control and Associated Communications – Data and Communication Security
IEC/TR 62357	Power system control and associated communications - Reference architecture for object models, services and protocols
NEMA250	Enclosures for Electrical Equipment (1000 V maximum)

## 2.7 Power transformers

IEC 60044	Instrument transformers requirement for protective current transformers for transient performance
IEC 60076	Power transformers
IEC 60214	On-load tap changers
IEC 61378	Converter Transformers
IEC 61558	Safety of power transformers, power supplies, reactors and similar products
IEC 62041	EMC requirements for power transformers, power supplies, reactors and similar products

## 2.8 Earthing and lightning protection

IEC 60050	Earthing and protection against electric shock
IEC 61024	Protection of structures against lightning
IEC 61138	Cables for portable earthing and short-circuiting equipment.
IEC 62305	Protection against lightning
IEC 62561	Lightning protection components
IEC 62548	Photovoltaic (PV) arrays - Design Requirements

## 3 Instrumentation & Control

### 3.1 SCADA

CCITT	Standard for information technology. Telecommunications and information exchange between systems.
EN 61850	Communication networks and systems in substations

### 3.2 Meteorological Station

ISO 9060	Specification and classification of instruments for measuring hemispherical solar and direct solar radiation
<b>3.3</b>	<b>Emergency generator &amp; UPS</b>
<b>3.4</b>	<b>Surveillance</b>
<b>3.5</b>	<b>Lighting</b>
<b>3.6</b>	<b>Metering</b>
IEC 60051	Direct acting indicating analogue electrical measuring instruments and their accessories
IEC 60359	Electrical and electronic measurement equipment - Expression of performance
IEC 60521	Class 0.5, 1 and 2 alternating-current watt-hour meters
IEC 60687	Alternating current static Watt-hour meters for active energy (classes 0.2S and 0.5S)
IEC 61554	Panel mounted equipment - Electrical measuring instruments - Dimensions for panel mounting
IEC 62052	Electricity metering equipment (AC) – General requirements, tests and test conditions - metering equipment
IEC 62053	Electricity metering equipment (AC) – General requirements, tests and test conditions - Static meters
IEC 60546	Controllers with analogue signals for use in industrial process control systems
IEC 60946	Binary direct voltage signals for process measurement and control systems
ISO 3511	Process measurement control functions and instrumentation.
<b>4</b>	<b>General</b>
AISC	American Institute of Steel Construction (AISC) standards
ACI	American Concrete Institute (ACI) standards
ASTM	American Society for Testing and Materials (ASTM) standards
BS EN 1992	Design of Concrete Structures
BS EN 1993	Design of Steel Structures
BS 8500	Concrete
ETSI	European Telecommunications Standards Institute (ETSI)

EN 61810	Electromechanical elementary relays
IEC 60038	Standard voltages
IEC 60060	High-voltage test techniques
IEC 60071	Insulation co-ordination
IEC 60073	Basic and safety principles for man-machine interface, marking and identification Coding principles for indication devices and actuators
IEC 60079	Explosive atmospheres (battery room)
IEC 60085	Thermal evaluation and classification of electrical insulation
IEC 60099	Surge arresters
IEC 60120	Dimensions of ball and socket couplings of string insulator nits
IEC 60137	Insulated bushings for alternating voltages above 1000 V
IEC 60152	Identification by hour numbers of the phase conductors of 3-phase electric systems
IEC 60156	Insulating liquids - Determination of the breakdown voltage at power frequency - Test method
IEC 60216	Electrical insulating materials - Thermal endurance properties
IEC 60269	Low- voltage fuses
IEC 60270	High-voltage test techniques – Partial discharge measurements
IEC 60273	Characteristics of indoor and outdoor post insulators for systems with nominal voltages greater than 1000V
IEC 60296	Fluids for electrotechnical applications
IEC 60305	Insulators for overhead lines with a nominal voltage above 1kV
IEC 60353	Line traps for AC power systems
IEC 60358	Coupling capacitors and capacitor dividers
IEC 60364	Low-voltage electrical installations
IEC 60376	Specification of technical grade sulphur hexafluoride (SF6) for use in electrical equipment
IEC 60382	Analogue pneumatic signal for process control systems
IEC 60383	Insulators for overhead lines with a nominal voltage above 1000 V
IEC 60447	Man-machine-interface (MMI) - Actuating principles

IEC 60567	Oil-filled electrical equipment - Sampling of gases and analysis of free and dissolved gases
IEC 60575	Thermal-mechanical performance test and mechanical performance test on string insulator units
IEC 60584	Thermocouples
IEC 60598	Luminaries
IEC 60599	Mineral oil – impregnated electrical equipment in service. Guide to the interpretation of dissolved and free gases analysis
IEC 60616	Terminal and tapping markings for power transformers
IEC 60617	Graphical symbols for diagrams
IEC 60623	Secondary cells and batteries containing alkaline or other non-acid electrolytes - Vented nickel-cadmium prismatic rechargeable single cells
IEC 60664	Insulation coordination for equipment within low-voltage systems
IEC 60794-1-1	Optical fibre cables: Generic specification - General
IEC 60865	Short circuit current: calculation of effects
IEC 60896	Stationary lead-acid batteries
IEC 60909	Short-circuit currents in three-phases A.C. systems
IEC 61000	Electromagnetic compatibility (EMC)
IEC 61082	Preparation of documents used in electrotechnology
IEC 61095	Electromechanical contactors for household and similar purposes
IEC 61125	Unused hydrocarbon based insulating liquids - Test methods for evaluating the oxidation stability
IEC 61131	Programmable controllers
IEC 61204	Low-voltage power supply devices, D.C. output
IEC 61508	Functional safety of electrical/electronic/programmable electronic safety-related systems
IEC 61643-11/12	Low-voltage surge protective devices – Surge protective devices connected to low-voltage power systems
IEC 61727	Photovoltaic (PV) systems - Characteristics of the utility interface
IEC 61829	Crystalline silicon PV array, on site measurements
IEC 61836	Solar Photovoltaic Energy Systems - Terms, definitions and symbols

IEC 61936-1	Power installations exceeding 1 kV A.C. - Part 1: Common rules
IEC 62103	Electronic equipment for use in power installations
IEC 62446	Grid connected photovoltaic systems - Minimum requirements for system documentation, commissioning tests and inspection
IEEE 803	Unique identification in power plants and related facilities, principles and definitions, recommended practice
NFPA 69	Standard on Explosion Prevention Systems
NFPA 551	Guide for the Evaluation of Fire Risk Assessments

#### Schedule 4 Purchaser Interconnection Facilities

**[Note:**

**This Schedule should set out in detail the works and equipment required to connect the Complex to the Grid System, i.e. the Purchaser Interconnection Facilities.**

**Purchaser Interconnection Facilities would include:**

- (a) all new interconnection systems, facilities, plant, equipment, cables and wires installed at the Complex substation and the transmission substation: and**
- (b) modifications, additions, upgrades or improvements to the existing Grid System.**

**The equipment to be defined as part of the Purchaser Interconnection Facilities would be: power transmission lines, auxiliary power line, earthing system, protections, communication system, feeders, towers, etc.**

**The Purchaser Interconnection Facilities will be project/site specific but the intention of the approach is that site selection seeks proximity to substations with capacity such that transmission distances are short and project sizing and location such that improvements to the Grid System required are minimal (e.g. interconnection bay and busbar at existing substation). Anything more substantial required to the Grid System is expected to be addressed within Government Infrastructure, which this similarly seeks to avoid or minimize.**

**The level of detail required in this Schedule will vary from country to country but we would envisage that the following matters would be addressed<sup>68</sup>:**

- (a) outline design and requirements provided to bidders during the RFP would be replicated in this schedule. The requirements would include the minimum warranties and other key contractual provisions (such as liability caps, whether or not turnkey wrap, bond requirements etc) under Purchaser Interconnection Facilities construction contracts;**
- (b) the requirement for the Purchaser to provide the connection point;**
- (c) the process by which the Seller would, following bid award, submit the detailed design for approval by the Purchaser. There will need to be a mechanism in place to allow the Seller to proceed where the Purchaser is not responsive;**
- (d) the procedures for Commissioning, acceptance (including defining "PPA Commissioning Tests") and transfer of the Purchaser Interconnection Facilities including hard deadlines or deeming provisions for Purchaser steps if not taken.**

**This Schedule will be developed once the grid study and grid connection outline have been completed, and the details of the Complex and the connection point are clearly defined.]**

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<sup>68</sup> **Note:** Depending on the finding of the scoping studies, this schedule may need to include a requirement for the installation of bird flight diverters.

**Schedule 5**  
**Metering requirements**

**1 Specifications of Metering System**

1.1 The Main Meter and the Back-Up Meter shall provide accurate determination of:

- (i) the quantities of PV Plant Net Electrical Output delivered directly from the PV Plant to the applicable Delivery Point;
- (ii) the quantities of auxiliary power delivered to the Delivery Point in relation to the PV Plant;
- (iii) the quantities of Charging Energy (Grid) delivered to the Delivery Point in relation to the BESS from the Grid System; and
- (iv) the quantities of BESS Net Electrical Output delivered to the Delivery Point in relation to the BESS.

1.2 Each of the Main Meter and the Back-Up Meter shall:

- (i) be able to measure at least the following parameters:
  - (a) [Energy (active and reactive);
  - (b) Power (active and reactive);
  - (c) Current in the three phases;
  - (d) Voltage in the three phases;
  - (e) Frequency; and
  - (f) Total Harmonic Distortion (THD) of both current and voltage;
- (ii) comply with relevant domestic codes and standards as well as the following international standards: IEC 60051, IEC 60359, IEC 61554, IEC 62052 and IEC 62053.
- (iii) have a minimum data storage capacity of 60 days;
- (iv) have an accuracy of plus or minus 0.3 per cent.; and
- (v) be located as close as reasonably practicable to the applicable Delivery Point.]<sup>69</sup>

**2 Testing of Metering System**

2.1 The Seller shall test the accuracy of and calibrate or recalibrate, if necessary, the Metering System on or before Commissioning.

2.2 From the start of Commissioning until the Commercial Operations Date, the Seller will be responsible for testing the accuracy of the Metering System according to manufacturers' standards and will recalibrate the Metering System, if necessary.

2.3 From the Commercial Operations Date:

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<sup>69</sup> **Note:** Technical team to advise of specific technical requirements for the two-way meter.

- (i) the Seller will test the accuracy of the Main Meter according to manufacturers' standards and will recalibrate the Main Meter, if necessary. The Seller shall give the Purchaser not less than five days' notice of calibration tests and the Purchaser shall have the right to witness such tests, as well as any inspection of the Main Meter or adjustment thereof, provided that, if the Purchaser's representative fails to attend such tests, inspection or adjustment, such right will have been waived with respect to such test, inspection and/or adjustment; and
- (ii) the Purchaser will test the accuracy of the Back-Up Meter according to manufacturers' standards and will recalibrate the Back-Up Meter, if necessary. The Purchaser shall give the Seller not less than five days' notice of calibration tests and the Seller shall have the right to witness such tests, as well as any inspection of the Back-Up Meter or adjustment thereof, provided that, if the Seller's representative fails to attend such tests, inspection or adjustment, such right will have been waived with respect to such test, inspection and/or adjustment.

2.4 Testing and calibration of the Metering System should be undertaken by an accredited laboratory approved by both Parties in accordance with IEC 62052 and IEC 62053. Re-calibration of the Metering System should take place at least every two years.

2.5 If any component of the Main Meter is found to be outside acceptable limits of accuracy as defined by the manufacturer of the component, or otherwise not functioning properly, the Seller will forthwith repair, recalibrate or replace such component of the Main Meter at its own cost and expense.

2.6 If any component of the Back-Up Meter is found to be outside acceptable limits of accuracy as defined by the manufacturer of the component, or otherwise not functioning properly, the Purchaser will forthwith repair, recalibrate or replace such component of the Back-Up Meter at its own cost and expense.

2.7 Additional testing may be conducted, at any reasonable time upon request by either Party at the requesting Party's expense, unless the test indicates that the Main Meter or the Back-Up Meter (as the case may be) is not within the accuracy limits specified in paragraph 1 (*Specifications of Metering System*), in which case the Seller shall bear the cost of the additional test in the case of the Main Meter and the Purchaser shall bear the cost of the additional test in the case of the Back-Up Meter.

### 3 Reading Metering System

3.1 Subject to the provisions of paragraph 3.3 and verification of the data recording system pursuant to paragraph 3.2, the Parties agree that the information contained in or obtained from the electronic data recording and telemetry systems of the Main Meter will be used to determine the PV Plant Metered Energy and the BESS Metered Energy.

3.2 The information contained in the electronic data recording system of the Main Meter shall be verified by checking that the sum of the hourly readings in the electronic data recording system over a specified period are consistent with the readings for the Main Meter over the same period (determined by subtracting the reading at the end of the period). In order to verify the information contained in the electronic data recording system, the following procedure will apply:

- (i) the readings of the Main Meter will be read at [16:00]<sup>70</sup> on the first day after Commissioning has commenced and thereafter Monthly at [16:00] on the last day of each Month or such other day and time as may be mutually agreed upon by the Parties;
- (ii) the Purchaser shall have the right to witness any such reading;
- (iii) if a Purchaser representative is present at such reading, then such reading shall be jointly taken and recorded;
- (iv) if a Purchaser representative is not present at such reading, then the Seller representative shall take and record such reading and make a photographic record thereof;
- (v) the Seller shall maintain a log of all such meter readings; and
- (vi) the cumulative recorded measurements for the relevant period shall be delivered by the Seller to the Purchaser within five days of the readings being taken.

3.3 If, in any test carried out pursuant to this Schedule 5, the Main Meter is found to be less accurate than the level specified in paragraph 1 (*Specifications of Metering System*) or is otherwise unavailable or functioning improperly, then, subject to paragraph 3.4, the correct amount of PV Plant Net Electrical Output or BESS Net Electrical Output (as applicable) delivered to the Purchaser for the actual period during which inaccurate measurements were made, if any, will be determined as follows, in the stated order:

- (i) the readings of the Back-Up Meter will be used to determine the PV Plant Metered Energy or BESS Metered Energy (as applicable) delivered to the Purchaser for the relevant period, unless the Back-Up Meter is found to be less accurate than the level specified in paragraph 1 (*Specifications of Metering System*) or is otherwise unavailable or functioning improperly;
- (ii) the Seller and Purchaser shall jointly prepare an estimate of the correct reading on the basis of all available information, including the telemetered data, and such guidelines as may have been agreed to between the Seller and the Purchaser; and
- (iii) if the Purchaser and the Seller fail to agree upon an estimate for the correct reading, the Independent Engineer shall determine the amount and its decision shall be final and binding on both Parties in absence of fraud or manifest error.

3.4 If the period of inaccuracy cannot be accurately determined, it will be deemed to have begun on the date which is midway between the date the Main Meter was found to be inaccurate and the date of the last meter reading accepted by the Parties as accurate, provided however that such period shall not exceed three Months. In no event, however, will any such adjustment be made for any period prior to the date on which the Main Meter was last tested and found to be accurate within the level specified in paragraph 1 (*Specifications of Metering System*) and not otherwise functioning improperly.

3.5 The difference between the previous payments by the Purchaser for the period of inaccuracy and the recalculated amount will be offset against or added to the next payment to the Seller under this Agreement, as appropriate, plus interest at the Interest Rate.

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<sup>70</sup> **Note:** To be aligned with the Dispatch Hours so that the meter reading includes the most recently passed Dispatch Hours during that month.

**4 Sealing of Metering System**

- 4.1 After completion of each test of the Metering System, Metering System will be jointly sealed by the Parties or, in respect of the Main Meter, if the Purchaser is not present, by the Seller and, in respect of the Back-Up Meter, if the Seller is not present, by the Purchaser.
- 4.2 Seals on the Main Meter will be broken only by the Seller personnel acting in accordance with the terms of this Agreement. The Seller will give the Purchaser at least five days' advance notice of the breaking of seals on the Main Meter. Such notice will specify the time at which a meter seal will be broken by the Seller personnel, and the Purchaser will be given the opportunity to be present when such seals are broken.
- 4.3 Seals on the Back-Up Meter will be broken only by the Purchaser personnel acting in accordance with the terms of this Agreement. The Purchaser will give the Seller at least five days' advance notice of the breaking of seals on the Back-Up Meter. Such notice will specify the time at which a meter seal will be broken by the Purchaser personnel, and the Seller will be given the opportunity to be present when such seals are broken.

**Schedule 6**  
**Commissioning of Complex and Testing**

**1 General**

- 1.1 The PPA Commissioning Tests in respect of the Complex comprise (i) the Mechanical Completion Test described in paragraph 4 (*Mechanical Completion Test*), (ii) the Functional Tests described in paragraph 5 (*Functional Tests*) (iii) the PV Plant Performance Test described in paragraph 6 (*PV Plant Performance Test*), (iv) the Storage Capacity Test described in paragraph 9 (*BESS Performance Tests*) and (v) the Roundtrip Efficiency Test described in paragraph 9 (*BESS Performance Tests*).
- 1.2 The PPA Commissioning Tests will be performed to ensure that the Complex will perform in conformance with the requirements specified in Schedule 3 (*Complex – Minimum functional specifications and standards*) and Schedule 7 (*Technical Limits*). Only after successful completion of these tests will the Complex be considered to be successfully Commissioned.
- 1.3 All tests shall comply with the requirements of the standards or codes, including the Grid Code and the norm IEC 62446.
- 1.4 During all PPA Commissioning Tests, the Seller's start-up and operating personnel will be present and will be responsible for the operation of the units.
- 1.5 If the Complex fails to achieve the requirements of any test described in this Schedule 6, the Seller shall have the opportunity to remedy such failures and repeat tests shall be carried out.
- 1.6 The Seller shall provide a report to the Purchaser certifying that the PPA Commissioning Tests have been successfully completed. The report shall include the results of tests conducted.

The Seller shall Commission the Complex as a whole,.

**2 Review of test procedures**

- 2.1 The Seller shall, within 60 days prior to the date that it proposes to commence the first PPA Commissioning Tests, submit the test procedures to the Purchaser and the Independent Engineer for approval, such approval not to be unreasonably withheld or delayed, and will be deemed given unless the Purchaser and the Independent Engineer presents to the Seller its objections in writing within 30 days of submission of the test procedures.

**3 Witnessing of PPA Commissioning Tests**

- 3.1 The Seller shall give the Purchaser and the Independent Engineer no less than 30 days' prior written notice of the anticipated date for the start of Commissioning. The Seller shall notify the Purchaser and the Independent Engineer as soon as reasonably practicable if the date on which it expects to start Commissioning subsequently changes.
- 3.2 The Purchaser and the Independent Engineer shall be permitted to have personnel at the Site, provided that such personnel abide by the rules set forth in the safety plan, general regulations and the Laws of [country], to observe and verify all procedures and tests performed by the Seller, its contractors and their sub-contractors or suppliers.

#### 4 Mechanical Completion Test

4.1 The Mechanical Completion Test is the first test to be undertaken as part of the PPA Commissioning Tests in respect of the Complex. The Mechanical Completion Test is the standard procedure to verify that the Complex has been built according to the requirements of Schedule 3 (*Complex – Minimum functional specifications and standards*) and the Laws of [country] and that there are no major technical shortcomings or visual defects.

Areas for inspection include:

##### 4.1.1 in relation to the PV Plant:

- (i) Site infrastructure;
- (ii) Security systems (i.e. fences, alarms);
- (iii) Civil works;
- (iv) Mounting structure;
- (v) PV modules;
- (vi) Cabling;
- (vii) PV Inverters;
- (viii) Direct current distribution system;
- (ix) Transformers;
- (x) Medium voltage system;
- (xi) Power evacuation cable;
- (xii) Monitoring system and meteorological system; and
- (xiii) PV Plant Metering System.

##### 4.1.2 in relation to the BESS:

- (i) Battery modules
- (ii) BESS cabling;
- (iii) BESS inverters;
- (iv) Battery management system (BAM-BMS), string management unit (BCMU) and module
- (v) management unit (BMU);
- (vi) BESS transformers;
- (vii) BESS medium voltage system;
- (viii) BESS power evacuation cable;

- (ix) Electrical protection power evacuation cable;
- (x) HVAC system;
- (xi) Fire protection system; and
- (xii) BESS Metering System.

4.2 The Independent Engineer shall determine whether the Mechanical Completion Test has been successfully completed in accordance with the procedures set out in schedule 2 (*Mechanical Completion Checklist*) to the Independent Engineer Agreement.

## 5 Functional Tests

5.1 The Functional Tests shall be performed after successful completion of the Mechanical Completion Test.

5.2 As a minimum the Functional Tests shall include the following:

### 5.2.1 in relation to the PV Plant:

PV array commissioning tests, according to IEC 62446, including at least:

- (a) Continuity of earthing tests;
- (b) Polarity test;
- (c) String open circuit voltage test;
- (d) String short circuit current test;
- (e) Insulation resistance of the DC circuits;
- (f) PV Inverter commissioning tests, as per the equipment manufacturers' commissioning procedures;
- (g) Tracking system (when applicable) commissioning test, as per the manufacturers' recommendations and procedures;
- (h) Low Voltage equipment test according to IEC 62446-6 and IEC 62446-7;
- (i) Medium Voltage (MV) equipment, including at least:
  - (j) MV transformers according to IEC 60076 and IEC 60726;
  - (k) MV switching equipment for protection of feeders and transformers according to IEC 60298;
  - (l) Uninterruptible Power System, according to IEC 60086; and
  - (m) Instrumentation and Control equipment, as per manufacturer's guidelines, including at least:
    - (I) SCADA System;

- (II) Metering equipment; and
- (III) Meteorological station.

**5.2.2** In relation to the BESS:

- (i) Battery Power Converter System (PCS) commissioning tests, as per the equipment manufacturers' commissioning procedures;
- (ii) Battery commissioning tests, commissioning test, as per the equipment manufacturers' commissioning procedures;
- (iii) Low Voltage equipment test according to IEC 62446-6 and IEC 62446-7;
- (iv) Medium Voltage (MV) equipment; and
- (v) Instrumentation and Control equipment, as per manufacturer's guidelines.

5.3 The Independent Engineer shall determine whether the Functional Test has been successfully completed in accordance with the procedures set out in the Independent Engineer Agreement.

**6 PV Plant Performance Test**

**6.1.1** The Seller shall provide confirmation together with supporting evidence to the Independent Engineer of the completion of the Mechanical Completion Test and the Functional Test at least ten days prior to the proposed commencement of the PV Plant Performance Test. The Independent Engineer may, within five days of receipt of such confirmation, request from the Seller any additional information it considers necessary to determine whether the Mechanical Completion Test and Functional Tests have been successfully completed.

**6.1.2** The PV Plant Performance Test shall be carried out after successful completion of the Mechanical Completion Test set out in paragraph 4 (*Mechanical Completion Test*) and all the Functional Tests of main equipment set out in paragraph 5 (*Functional Tests*).

**6.1.3** The objective of the PV Plant Performance Test is to prove that the PV Plant is able to produce energy continuously and with the PV Plant Performance Ratio of at least 85% of the monthly Estimated PV Plant Performance Ratio for the month in which the test occurs, corrected for temperature. Where the test falls across two months, the weighted average of the two relevant monthly Estimated PV Plant Performance Ratios corrected for temperature shall be used.

**6.1.4** The PV Plant Performance Test shall have a 10 days' duration accounting for the following criteria:

- (i) the daily total irradiation on the plane of the array shall be at least 3.5 kWh/m<sup>2</sup>;
- (ii) in case the minimum daily irradiation is not achieved the test will be extended accordingly by the relevant number of days until 10 days meet the minimum irradiation of 3.5 kWh/m<sup>2</sup>; and

- (iii) the PV Plant and the grid shall be available throughout the duration of the test. In the event of unavailability, the testing period will be extended accordingly by the relevant number of days.

**6.1.5** The PV Plant Performance Ratio shall be calculated on the basis of operating data recorded by the SCADA System as follows:

$$PR_{meas} = \frac{\sum_j E_{meas,j}}{P_{nom} \cdot \sum_j \left( \frac{G_j}{G_{ref}} \cdot \left( 1 - \frac{\beta}{100} \cdot (T_{mod} - T_{meas,j}) \right) \right)}$$

Where:

$E_{meas,j}$  = Produced energy (in kWh) over each metering interval  $j$ ;

$P_{nom}$  = Nominal power of the PV Plant in kWp. Sum of the individual module power of all installed modules as per the relevant datasheets;

$G_j$  = Irradiation in kWh/m<sup>2</sup> measured per each metering interval  $j$  with an on-site pyranometer with an identical inclination to the modules. If the modules are tracked, the pyranometer also has to be tracked the same way. When several pyranometers are installed then the average measurement of the installed pyranometers will be considered;

$G_{ref}$  = 1 kW/m<sup>2</sup>, irradiance at the reference STC conditions;

$PR_{meas}$  = the average PV Plant Performance Ratio during the testing period;

$T_{meas,j}$  = the average module temperature measured during each metering interval  $j$  by the temperature sensors placed on the reverse side of the modules (in °C). When several module temperature sensors are installed then the average measurement of the installed module temperature sensors will be considered;

$T_{mod}$  = the average monthly PV module temperature expected as determined in the table in Section C (*Estimated PV Plant Performance Ratio*) of Part I (*General*) of Schedule 1 (*Seller specific information*);

$\beta$  = Maximum power temperature coefficients of the PV modules as per the relevant datasheets. For the avoidance of doubt  $\beta$  shall be a negative value; and

$j$  = 10 minutes interval.

**6.1.6** The PV Plant Performance Test will be considered successful if the PV Plant has achieved a PV Plant Performance Ratio of at least 85 per cent. of the monthly Estimated PV Plant Performance Ratio for the month in which the test occurs, corrected for temperature. Where the test falls across two months, the weighted average of the two relevant monthly Estimated PV Plant Performance Ratios corrected for temperature shall be used.

**7 Compliance with Technical Limits During PV Plant Performance Tests**

**7.1.1** During the duration of the PV Plant Performance Test, all the relevant parameters defined in Schedule 7 (*Technical Limits*) will be measured in order to confirm that the PV Plant complies with the Technical Limits when operating under normal conditions.

**7.1.2** Additionally, any other test prescribed in the Industry Documents with which the PV Plant must comply, as specified in Schedule 7 (*Technical Limits*), should be undertaken (i.e. tolerance to abnormal operating conditions and sudden voltage drops and peaks).

**8 Calculation of the PV Plant Achieved Capacity and BESS Achieved Capacity**

**8.1.1** After successful completion of the PV Plant Performance Test, the Seller shall calculate the PV Plant Achieved Capacity.

**8.1.2** This calculation shall take consideration and provide evidence of:

- (i) DC capacity in kW peak according to the Construction Contract which is the sum of PV modules' peak power as stated in the modules' labels and datasheets.
- (ii) Installed DC capacity in kW peak resulting from the sum of the modules' flash test peak power. This must exceed the installed AC capacity.
- (iii) Installed AC capacity, based on the sum of the PV inverters' maximum capacity in kW (when  $\cos \phi = 1$ ).

**9 BESS Performance Tests**

**Storage Capacity Test<sup>71</sup>**

**9.1.1** The objective of the Storage Capacity Test is to prove that the BESS is able to maintain output through a control setpoint, as measured at the Delivery Point in relation to the BESS and is able to continuously dispatch the full BESS Contracted Capacity.

**9.1.2** The Storage Capacity Test shall require the Seller to maintain electrical output from the BESS for each hour in the Dispatch Period and the BESS Achieved Capacity:

- (i) in megawatt hours (MWh) shall be determined as the aggregate of the quantity of electrical output (MWh) during the Dispatch Period, as measured at the Delivery Point at the BESS; and
- (ii) in megawatts (MW) shall be determined as the quotient of the aggregate quantity of electrical output (MWh) during the Dispatch Period, as measured at the Delivery Point at the BESS, divided by the number of hours in the Dispatch Period.

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<sup>71</sup> **Note:** The Storage Capacity Test tests the capacity of the BESS by the BESS discharging from the lower of (i) its maximum State of Charge or (ii) 100% State of Charge to a 0% State of Charge for the number of Dispatch Hours. The aggregate MWhs are then calculated over such period and divided by the number of Dispatch Hours, to calculate the capacity of the BESS.

- 9.1.3** Seller will perform a Storage Capacity Test generally in the following manner and utilizing the following steps:
- (i) Seller will fully charge the BESS to the lower of (i) its maximum State of Charge or (ii) 100% State of Charge so that the BESS is fully charged and dispatchable;
  - (ii) Seller will discharge the BESS from the lower of (i) its maximum State of Charge or (ii) 100% State of Charge, for a continuous period equal to the Dispatch Period;
  - (iii) the Seller will add the quantity of MWh produced by the BESS at the Delivery Point at the BESS for the consecutive hours in the Dispatch Period to produce a sum quantity of MWh for the Dispatch Period, such amount being the BESS Achieved Capacity in MWh; and
  - (iv) Seller will divide the sum quantity of MWh produced over the Dispatch Period by the number of hours in the Dispatch Period to produce a value that is the BESS Achieved Capacity in MWh.
- 9.1.4** In the event that the BESS becomes unavailable during the Storage Capacity Test, the Storage Capacity Test shall be restarted.
- 9.1.5** The Storage Capacity Test can only be performed if prior to the start of the Storage Capacity Test the BESS is at the lower of: (i) its maximum State of Charge or (ii) 100% State of Charge and if during the Storage Capacity Test the BESS is continuously dispatched to its minimum State of Charge with the discharged energy delivered to the Delivery Point at the BESS.
- 9.1.6** The Storage Capacity Test will be considered successful if the BESS Achieved Capacity is equal to or greater than the BESS Contracted Capacity.

#### **Roundtrip Efficiency Test**

- 9.1.7** After successful completion of the Storage Capacity Test, the Seller shall perform the Roundtrip Efficiency Test.<sup>72</sup>
- 9.1.8** The objective of the Roundtrip Efficiency Test (the ("**Roundtrip Efficiency Test**") is to prove that the BESS is able to fully charge and discharge at an RTE Ratio equal to or greater than the RTE Performance Metric.
- 9.1.9** The Roundtrip Efficiency Test shall require measurement of Charging Energy (Grid) at the Delivery Point at the BESS to bring the BESS from 0% State of Charge to a 100% State of Charge from the grid, followed by a resting period of not less than [five (5)]<sup>73</sup> minutes and no greater than [four (4) hours]<sup>74</sup>, followed by measurement of the BESS Net Electrical Output (MWh discharged) delivered to the grid to bring the BESS to a 0% State of Charge according to Purchaser Dispatch Instruction.
- 9.1.10** The Roundtrip Efficiency Test will be considered successful if the RTE Ratio is equal to or greater than the RTE Performance Metric.

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<sup>72</sup> **Note:** This order of testing is required as the RTE testing is reliant on the BESS Achieved Capacity being known, as the State of Charge concept is relative to the BESS Achieved Capacity.

<sup>73</sup> **Note:** Subject to technical advice.

<sup>74</sup> **Note:** Subject to technical advice.

10 **Independent Engineer and Commercial Operations Date**

**10.1.1** Within ten days of completion of the later of PV Plant Performance Test, the Storage Capacity Test and the Roundtrip Efficiency Test, the Seller shall send to the Independent Engineer a test report containing the test results and relevant analysis of the PV Plant Performance Test, Storage Capacity Test and Roundtrip Efficiency test and calculation of the BESS Achieved Capacity, PV Plant Achieved Capacity and RTE Ratio.

**10.1.2** The Independent Engineer shall, within ten days of receiving from the Seller such testing report, certify that:

- (i) the PV Plant Performance Test has been completed successfully;
- (ii) the PV Plant Achieved Capacity is as calculated by the Seller;
- (iii) the Storage Capacity Test has been completed successfully;
- (iv) the BESS Achieved Capacity as calculated by the Seller;
- (v) the Roundtrip Efficiency Test has been completed successfully; and
- (vi) the RTE Ratio is as calculated by the Seller.

**10.1.3** If the Independent Engineer determines that:

- (i) the PV Plant Performance Test has not been completed successfully;
- (ii) subject to Clause 5.4.3, the PV Plant Achieved Capacity is below the PV Plant Contracted Capacity;
- (iii) the Storage Capacity Test has not been completed successfully;
- (iv) subject to Clause 5.4.3, the BESS Achieved Capacity is below the applicable BESS Contracted Capacity;
- (v) the Roundtrip Efficiency Test has not been completed successfully; or
- (vi) subject to Clause 5.4.3, the RTE Ratio is below the RTE Performance Metric,

it shall promptly notify the Seller. Subject to Clause 5.4.3, the Seller shall promptly take such steps as are necessary to remedy such failure and shall thereafter repeat the PV Plant Performance Test, the Storage Capacity Test and/or the Roundtrip Efficiency Test (as applicable).

**10.1.4** The Commercial Operations Date of the Complex shall then occur at 00:00 on the day following the certification that the PV Plant Performance Test, Storage Capacity Test and Roundtrip Efficiency Test has been completed successfully.

11 **Calculation of the Storage Capacity following the Commercial Operations Date**

11.1 At least once per Contract Year beginning with the second Contract Year, within the first quarter of each Contract Year, upon no less than [five (5)] Business Days prior notice to Purchaser, Seller shall complete a Storage Capacity Test and the BESS shall be dispatched accordingly for

purposes of such Storage Capacity Test in accordance with paragraph 9 (*BESS Performance Tests*) of this Schedule 6 (*Commissioning of Complex and Testing*). Either Party may, within [twenty-four (24)] hours of completion of any annual Storage Capacity Test, reject the Storage Capacity Test and require a retest of the Storage Capacity Test; provided, however, that a Party may not require more than [two (2)] retests in relation to an annual Storage Capacity Test.

- 11.2 In addition, either Party shall have the right to require a retest of the Storage Capacity Test at any time following the Commercial Operations Date upon five (5) days prior written notice to if it reasonably believes that the actual storage capacity has varied materially from the results of the most recent tests. Either Party shall be entitled to require one (1) retest of any such test provided that it rejects the test within twenty-four (24) hours of completion of the test.
- 11.3 At the time of any requirement for a Storage Capacity Test under this paragraph, if operating conditions were consistent with paragraph 10 (*Independent Engineer and Commercial Operations Date*) of this Schedule 6 (*Commissioning of Complex and Testing*) at any time in the prior 15 days, the Seller may fulfil the requirement to conduct a Storage Capacity Test by use of verifiable operational data.
- 11.4 No later than five (5) days following any Storage Capacity Test, Seller shall submit a testing report detailing results and findings of the test. The report shall include meter readings and plant log sheets verifying the operating conditions and output of the BESS.
- 11.5 The actual storage capacity determined pursuant to a Storage Capacity Test under this paragraph [11] shall become the new BESS Achieved Capacity at the beginning of the day following the completion of the test for all purposes under this Agreement; provided that the BESS Achieved Capacity shall not exceed the then applicable BESS Contracted Capacity.
- 11.6 If the Parties disagree on the calculation of the BESS Achieved Capacity, the Independent Engineer shall determine the amount and its decision shall be final and binding on both Parties in absence of manifest mathematical error.
- 11.7 The BESS Achieved Capacity established by the most recent Storage Capacity Test shall remain in effect until the next Storage Capacity Test is completed and the results are certified by the Independent Engineer, or, otherwise determined by the Independent Engineer pursuant to paragraph 11.6 above.

## 12 **Calculation of the PV Plant Performance Ratio following the Commercial Operations Date**

- 12.1 The PV Plant Performance Ratio shall be calculated at the end of each Contract Year on the basis of operating data recorded by the SCADA System for that year excluding intervals where:
- (i) the irradiance on the plane of the array is below 100W/m<sup>2</sup>; and
  - (ii) operation of the PV Plant is affected by any event or circumstance (or combination thereof) for which the Seller is entitled to relief in accordance with Clause 14 (*Relief Events*).
- 12.2 The PV Plant Performance Ratio for the purposes of calculating Deemed Generated Energy in accordance with Schedule 9 (*Determination of payments*), shall be determined in accordance with the formula set out below (where all the terms have the meanings given in paragraph 6 (*PV Plant Performance Test*)):

$$PR_{meas} = \frac{\sum_j E_{meas,j}}{P_{nom} \cdot \sum_j \left( \frac{G_j}{G_{ref}} \cdot \left( 1 - \frac{\beta}{100} \cdot (T_{mod} - T_{meas,j}) \right) \right)}$$

12.3 If the Parties disagree on the calculation of the PV Plant Performance Ratio, the Independent Engineer shall determine the amount and its decision shall be final and binding on both Parties in the absence of manifest mathematical error.

**13 Calculation of the Storage Availability Factor following the Commercial Operations Date**

13.1 The Storage Availability Factor shall be calculated at the end of each Contract Year on the basis of operating data recorded by the SCADA System for that Contract Year.

13.2 If the Parties disagree on the calculation of the Storage Availability Factor, the Independent Engineer shall determine the amount and its decision shall be final and binding on both Parties in the absence of manifest mathematical error.

Schedule 7  
Technical Limits

Section A. PV Plant

**[This Schedule will be completed as part of the upfront advisory work. The Schedule is expected to:**

- (i) Detail the various codes (e.g. grid code, distribution code) with which the plant must comply.**
- (ii) Give additional detailed technical requirements for areas such as:**
  - (a) Tolerance of Frequency and Voltage Deviations:**
    - A. Normal Operating Conditions;**
    - B. Abnormal Operating Conditions;**
    - C. Tolerance to sudden voltage drops and peaks;**
  - (b) Frequency Response;**
  - (c) Reactive Power Capabilities;**
  - (d) Control Functions:**
    - A. Reactive power Control;**
    - B. Power Factor Control;**
    - C. Voltage Control;**
  - (e) Power Quality:**
    - A. Voltage fluctuation;**
    - B. High-frequency currents and voltages (harmonics, inter-harmonics);**
    - C. Unbalanced currents and voltages;**
  - (f) Protection and Fault levels;**
  - (g) Active Power Constraint Functions;**
  - (h) Control Function Requirements; and**
  - (i) Signals, Communications & Control.]**

Section B. BESS

***[Note: We would expect that the technical requirements relating to the BESS be included in the PPA. This would require the review of technical experts.]***

**Section C. PV Plant + BESS**

***[Note: To be confirmed whether the technical requirements relating to the PV Plant and BESS should be included in the PPA. This would require the review of technical experts.]***

**Schedule 8**  
**Requirements for maintenance, operating limits and despatch procedures**

**Section A. Maintenance**

In addition to complying with the requirements of the Grid Code, the following conditions shall apply to ensure good co-ordination between the Seller and the Purchaser in respect of the operation of the Complex during Scheduled and Unscheduled Outages and in respect of scheduling and dispatch.

**1 Annual planned maintenance schedule**

- 1.1 Not later than [90] days prior to the commencement of each Contract Year (save for the first Contract Year, for which the corresponding period shall be 45 days prior to the Commercial Operations Date), the Seller shall submit its plans for full or partial interruptions of the generating capability and storage capability of the Complex for that Contract Year following consultation with the Purchaser regarding the Purchaser's anticipated major maintenance outages in that Contract Year (each such planned full or partial interruption, a "**Scheduled Outage**"), for a duration not exceeding the Permitted Scheduled Outages for that Contract Year.
- 1.2 The Purchaser may, on no less than 45 days' prior written notice to the Seller, request the Seller to reschedule a Scheduled Outage to an alternative Month and the Seller shall use all reasonable endeavours to accommodate such rescheduling if it is consistent with Prudent Utility Practice.
- 1.3 The Seller may, on no less than 21 days' prior written notice to the Purchaser, reschedule a Scheduled Outage to an alternative Month, provided that such rescheduling is consented to in writing by the Purchaser, which consent may not be unreasonably withheld.

**2 Monthly and weekly planned maintenance schedule**

- 2.1 No later than seven days prior to the commencement of each Month and following consultation with the Purchaser regarding the Purchaser's anticipated major maintenance outages during that Month, the Seller shall submit its Scheduled Outages for the Month.
- 2.2 The Purchaser may, on no less than seven days' prior written notice to the Seller, request the Seller to reschedule a Scheduled Outage to an agreed time period and the Seller shall use all reasonable endeavours to accommodate such rescheduling if it is consistent with Prudent Utility Practice.
- 2.3 The Seller may, on no less than seven days' prior written notice to the Purchaser, reschedule a Scheduled Outage to another time period, provided that such rescheduling is consented to in writing by the Purchaser, which consent may not be unreasonably withheld.
- 2.4 The Seller shall send to the Purchaser the final maintenance schedule for the Complex in respect of the Scheduled Outages for the following week by the Thursday preceding the first week of that schedule.
- 2.5 The Seller may not conduct scheduled maintenance other than in accordance with the maintenance schedule without the prior written consent of the Purchaser.

**3 Unscheduled Outages and curtailment**

- 3.1 If there is an unforeseen full or partial interruption of the generating capability or storage capability of the Complex (an "**Unscheduled Outage**"), the Seller shall immediately inform the Purchaser

by telephone or email on the expected consequences for the output predictions in the short term and reissue its notifications accordingly.

- 3.2 In case of an Emergency requiring full or partial curtailment of the Complex that lasts more than 24 hours, the Purchaser may on notice given no more than 48 hours after the commencement of the event, request the Seller to reschedule a Scheduled Outage that was to be commenced during the time period of the Emergency and the Seller shall use all reasonable endeavours to accommodate such rescheduling if it is consistent with Prudent Utility Practice.

**Section B. BESS Operating Limits**

**1 Introduction**

This Part B describes the BESS Operating Limits that establish limits on the operational requirements of the BESS from the Commercial Operations Date until the BESS Term Expiry Date.

**2 BESS Facility Operating Limits<sup>75</sup>**

<b>Depth of discharge ("DOD")</b>	BESS Contracted Capacity in MWh
<b>Equivalent Cycles at DOD over Contract Year</b>	Purchaser shall have the right to [x] (maximum) Equivalent Cycles per Contract Year
<b>Equivalent Cycles at DOD over Term</b>	Purchaser shall have the right to one Equivalent Cycle per day of each Contract Year during the BESS Term
<b>[Other operating limits]</b>	<b>[Placeholder]</b>

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<sup>75</sup> **Note:** BESS operating limits to be aligned with the OEM warranty requirements. The operating limits should back to back with the OEM warranty requirements to ensure that the OEM warranties are not breached and the Seller can rely on the warranties. Place holders have been included for operating limits the Seller may wish to consider. However this will need to be updated on a case by case basis.

**Section C. Forecasting**

**3 Forecasting information**

**PV Plant Forecasting**

**3.1 Weekly forecast generation profile**

The Seller shall provide to the Purchaser on a weekly basis, before 09:00 on the preceding Wednesday, the week ahead generation forecast in respect of the PV Plant Net Electrical Output, calculated at the Delivery Point in relation to the PV Plant, in the following format.

<b>Day</b>	<b>MWh</b>	<b>Available MW</b>
Monday		
Tuesday		
Wednesday		
Thursday		
Friday		
Saturday		
Sunday		

**3.2 Daily forecast generation profile**

The Seller shall provide on a daily basis, 12 hours before the commencement of each day, the day ahead generation forecast in respect of the PV Plant Net Electrical Output, calculated at the Delivery Point in relation to the PV Plant, in the following format.

<b>Time Hours</b>	<b>MWh</b>	<b>Available MW</b>
00:00 - 01:00		
01:00 - 02:00		
02:00 - 03:00		
03:00 - 04:00		
04:00 - 05:00		
05:00 - 06:00		
06:00 - 07:00		
07:00 - 08:00		
08:00 - 09:00		
09:00 - 10:00		
10:00 - 11:00		
11:00 - 12:00		
12:00 - 13:00		
13:00 - 14:00		
14:00 - 15:00		
15:00 - 16:00		

16:00 - 17:00		
17:00 - 18:00		
18:00 - 19:00		
19:00 - 20:00		
20:00 - 21:00		
21:00 - 22:00		
22:00 - 23:00		
23:00 - 24:00		

**3.3 Daily Forecast BESS Available Capacity**

Commencing on the Commercial Operations Date and every day thereafter, the Seller shall notify the Purchaser by [08:00] each day of the day ahead forecast BESS Available Capacity (in MWac) that it expects to be able to make Available during each hour of the Dispatch Period (subject to any deductions for Permitted Scheduled Outages and Permitted Unscheduled Outages) in the following format:

<b>Time Hours</b>	<b>Available MW</b>
H1	
H2	
H3	
H4	
H5	
H6	
H7	
H8	
H9	
H10	

**Section D. BESS Dispatch Instructions**

- 4 In respect of dispatch of the BESS, commencing on the Commercial Operations Date and every day thereafter by [15:00] each day, the Purchaser shall provide the Seller with a nomination as to its BESS Net Electrical Output requirements for each hour of the Dispatch Period falling within the following day, up to an amount per hour of the Dispatch Period not exceeding the forecast BESS Available Capacity (in MWac) that can be made Available in respect of such hour, notified from the Seller to the Purchaser in accordance with paragraph 3.1 of Section C (*Forecasting*) of Schedule 8 (*Requirements for maintenance, operating limits and despatch procedures*) above and subject always to compliance with the BESS Operating Limits (a "**Purchaser Dispatch Instruction**").

**Schedule 9  
Determination of payments**

**1 Capacity Charge**

- 1.1 The Capacity Charge is set out in Part II (*Tariff Information*) of Schedule 1 (*Seller specific information*).
- 1.2 The Capacity Charge shall be increased where required to reflect any Increased Costs in accordance with Clause 15 (*Financial protections*).
- 1.3 The Capacity Charge shall be decreased where required to reflect the benefit of any Decreased Costs in accordance with Clause 16 (*Decreased Costs*).

**2 Monthly Capacity Payment Amount**

- 2.1 The Monthly Capacity Payment Amount for any Month shall be calculated based on the sum of the Hourly Storage Capacity Payment for each Dispatch Hour of that Month.
- 2.2 For each Dispatch Hour of that Month, the "**Hourly Storage Capacity Payment**" shall be determined as follows:

$$HSCP_i = AvCap_i \times AvCharge_i$$

where:

- (i)  $HSCP_i$  means the amount of the Hourly Storage Capacity Payment for Dispatch Hour "i"
- (ii)  $AvCap_i$  means the Available Storage Capacity for Dispatch Hour "i" (which, where the Seller is entitled to receive payments in respect of Deemed Storage Capacity pursuant to paragraph 3.3 below, shall be deemed to be the Deemed Storage Capacity)
- (iii)  $AvCharge_i$  means the amount of the Capacity Charge for Dispatch Hour "i"

**3 Deemed Storage Capacity**

If the Seller is entitled to receive payment in respect of Deemed Storage Capacity pursuant to Clause 5.4.4(i) (*Commercial Operation Date*) or Clause 15 (*Financial protections*), then Deemed Storage Capacity shall be based on the following proxy for the Net Dependable Capacity which could have been (but was not) made Available for delivery by the Complex:

**3.1 Before the Original Scheduled Commercial Operations Date**

No Deemed Storage Capacity payments will be made in respect of the period prior to the Original Scheduled Commercial Operations Date.

**3.2 On or after the Original Scheduled Commercial Operations Date but before the Commercial Operations Date**

The Purchaser shall pay to the Seller the Deemed Storage Capacity of the BESS from the Deemed Commercial Operations Date. The Purchaser shall make payment of the Deemed Storage Capacity for the duration of the period commencing on the Deemed Commercial Operations Date and ending on earlier of the Commercial Operations Date and the date on which

the Complex ceases to be deemed commissioned pursuant to Clause 5.4.4(i) (*Commercial Operation Date*).

**3.3 On or after the Commercial Operations Date**

From and after the Commercial Operations Date, if, and to the extent that, as a result of one or more Relief Events which are Purchaser Risk Events or No Fault Purchaser Risk Events, the Seller is prevented from, or restricted in making Available the Net Dependable Capacity then, for any hour of any Dispatch Period in which such events or circumstances are continuing, the Available Storage Capacity shall be deemed to be the Deemed Storage Capacity.

**3.4 Capacity Charge for Deemed Storage Capacity**

The charge for all Deemed Storage Capacity before or after the Commercial Operations Date or any Deemed Commercial Operations Date shall be the Capacity Charge as adjusted in accordance with Schedule 9 paragraph 1 (*Capacity Charge*), including, if applicable, as a result of the event giving rise to the entitlement for Deemed Storage Capacity.

**4 Monthly Capacity Payment Amount and Deemed Storage Capacity payments**

The provisions of Clause 12 (*Compensation, payment and billing*) in respect of payments for Monthly Capacity Payment Amount and Deemed Storage Capacity shall apply.

**5 Energy Charge**

- 5.1 The Energy Charge is set out in Part II (*Tariff Information*) of Schedule 1 (*Seller specific information*).
- 5.2 The Energy Charge shall be increased where required to reflect any Increased Costs in accordance with Clause 15 (*Financial protections*).
- 5.3 The Energy Charge shall be decreased where required to reflect the benefit of any Decreased Costs in accordance with Clause 16 (*Decreased Costs*).

**6 Deemed Generated Energy**

If the Seller is entitled to receive payment in respect of Deemed Generated Energy pursuant to Clause 15 (*Financial protections*), then Deemed Generated Energy shall be based on the following proxy for the electrical energy which could have been (but was not) generated by the PV Plant:

**6.1 Before the Original Scheduled Commercial Operations Date**

No Deemed Generated Energy payments will be made in respect of the period prior to the Original Scheduled Commercial Operations Date.

**6.2 On or after the Original Scheduled Commercial Operations Date but before the Commercial Operations Date**

The Seller shall be entitled to Deemed Generated Energy in respect of the amount of capacity, not exceeding the PV Plant Contracted Capacity, as the Seller determines in good faith would have been Commissioned in the relevant Month, subject in each case to the Purchaser's right to refer such determination for adjudication by the Independent Engineer.

The Deemed Generated Energy shall be calculated as follows:

$$E_{n,deemed} = \sum_j E_{\text{module } j,n} * PR_n / 100$$

Where:

- (i)  $E_{n,deemed}$  = Deemed Generated Energy in billing month  $n$  (in kWh);
- (ii)  $E_{\text{module } j,n}$  = Calculated energy at the module level as determined based on the formula set out below in each metering interval  $j$  during which energy has been deemed to be delivered in billing month  $n$ ;
- (iii)  $PR_n$  = Estimated PV Plant Performance Ratio (in %) in billing month  $n$  as set out in the table in Section C (*Estimated PV Plant Performance Ratio*) of Part I (*General*) of Schedule 1 (*Seller specific information*) and modified for degradation as detailed in that schedule;
- (iv)  $j$  = metering interval of 10 minutes.

### 6.3 On or after the Commercial Operations Date

The Deemed Generated Energy shall be calculated as far as possible on the basis of operating data recorded by the SCADA System as follows:

$$E_{n,deemed} = \sum_j E_{\text{module } j,n} * PR_n / 100$$

Where:

- (i)  $E_{n,deemed}$  = Deemed Generated Energy in billing month  $n$  (in kWh);
- (ii)  $E_{\text{module } j,n}$  = Calculated energy at the module level as determined based on the formula set out below in each metering interval  $j$  during which energy has been deemed to be delivered in billing month  $n$  but excluding any periods that fall within Scheduled Outages;
- (iii)  $PR_n$  = the lesser of the Estimated PV Plant Performance Ratio (as set out in the table in Section C (*Estimated PV Plant Performance Ratio*) of Part I (*General*) of Schedule 1 (*Seller specific information*)) and the average PV Plant Performance Ratio for the previous 30 days prior to the Purchaser Risk Event or No Fault Purchaser Risk Event; and
- (iv)  $j$  = metering interval of 10 minutes.

### 6.4 Calculated energy at the module level

The calculated energy at the module level shall be determined as follows:

$$E_{\text{module } j} = PA * (G_j / 1000 * MI / 60 * \eta_{STC} / 100 * (1 - \beta / 100 * (T_{\text{mod } n} - T_{\text{meas } j})))$$

Where:

- (i)  $E_{\text{module } j}$  = Calculated energy at the module level as determined based on the formula set out in this section in each metering interval  $j$  (in kWh);
- (ii)  $PA$  = Plane of array area of the PV Plant (in m<sup>2</sup>) that is available for generation or that would have been available for generation other than for the occurrence of a Purchaser Risk Event or No Fault Purchaser Risk Event;
- (iii)  $\eta_{STC}$  = Module efficiency at Standard Test Conditions as per module data sheet (in %);
- (iv)  $G_j$  = solar irradiance (in W/m<sup>2</sup>) is the average irradiance measured during the metering interval  $j$  by the sensors placed in the plane of array. If such measured data is not available for the period in question, the corresponding data from the preceding year should be used;
- (v)  $\beta$  = the temperature coefficient from the module's data sheet (in %/°C);
- (vi)  $MI$  = the metering interval of 10 minutes;
- (vii)  $T_{\text{meas}}$  = the monthly average module temperature measured during the each metering interval  $j$  by the temperature sensors placed on the reverse side of the modules (in °C); and

- (viii)  $T_{mod}$  = the average monthly module temperature expected as set out in the table in Section C (*Estimated PV Plant Performance Ratio*) of Part I (*General*) of Schedule 1 (*Seller specific information*).

#### 6.5 Disagreements as to calculations of Deemed Generated Energy

If the Parties disagree on the calculation of the amount of Deemed Generated Energy (including the amount of capacity that would have been Commissioned in a relevant Month pursuant to paragraph 6.2 (*On or after the Original Scheduled Commercial Operations Date but before the Commercial Operations Date*)):

**6.5.1** either Party shall be entitled to refer the matter to the Independent Engineer to determine the amount and its decision shall be final and binding on both Parties in absence of fraud or manifest error;

**6.5.2** where the dispute relates to the amount of capacity that would have been Commissioned in a relevant Month pursuant to paragraph 6.2 (*On or after the Original Scheduled Commercial Operations Date but before the Commercial Operations Date*):

- (i) the Purchaser shall pay for the Deemed Generated Energy throughout the period of any dispute (and notwithstanding that the amount is in dispute) on the basis of the Seller's determination of such proportion; and
- (ii) if it is subsequently agreed or determined that the amount of capacity was overstated, an amount corresponding to the revenue arising from the difference will be refunded by the Seller to the Purchaser with interest from the date of payment to the date of refund at the Interest Rate.

#### 6.6 Energy Charge for Deemed Generated Energy

The Purchaser shall pay to the Seller the Deemed Generated Energy of the PV Plant from the Deemed Commercial Operations Date. The Purchaser shall make payment of the Deemed Generated Energy for the duration of the period commencing on the Deemed Commercial Operations Date and ending on earlier of the Commercial Operations Date and the date on which the Complex ceases to be deemed commissioned pursuant to Clause 5.4.4(i) (*Commercial Operation Date*).

#### 7 Energy and Deemed Generated Energy payments

The provisions of Clause 12 (*Compensation, payment and billing*) in respect of payments for PV Plant Net Electrical Output and Deemed Generated Energy shall apply.

Schedule 10  
Form of PIF Transfer Agreement

***[Note: To be included]***

Schedule 11  
Form of Escrow Letter

To: [Escrow Agent's Name]

[Escrow Agent's address]

**[Note: pro forma letter subject to tailoring according to jurisdiction of the Escrow Agent/Escrow Account.]**

Dear Sirs

Date: [●]

We are writing to confirm the terms on which funds deposited in the account [number] (the "**Escrow Account**") today and from time to time thereafter by [Purchaser] (the "**Purchaser**") or the [Seller] (the "**Seller**") (as the case may be) may be transferred, pursuant to the terms of the power purchase agreement dated [●] made between the Seller and the Purchaser (the "**Power Purchase Agreement**").

These terms are:

- 1 You shall maintain the Escrow Account as an interest-bearing account numbered [●].
- 2 Subject to paragraph 4 below, you shall hold the funds in the Escrow Account (or any part of it) in the name of the Purchaser.
- 3 If a payment is made from the Escrow Account to the Seller:
  - 3.1 such payment shall be made gross;
  - 3.2 in the event that a deduction or withholding is required by law, you shall increase the sum due to the extent necessary to ensure that, after such deduction or withholding, the Seller receives a sum equal to the sum it would have received had no deduction or withholding been made; and
  - 3.3 in the event that such payment will be or has been subject to tax, you shall pay to the Seller on request, from the Escrow Account, the amount (after taking into account any tax) necessary to ensure that the Seller receives and retains a net sum equal to the sum it would have received had the payment not been subject to tax.
- 4 If the Seller notifies you that it is entitled to a payment in accordance with the Power Purchase Agreement and provides a copy of a notice from [a director] of the Seller confirming such entitlement, you shall pay or hold the amount notified to or for the Seller or in the manner directed in the Seller's written instructions.
- 5 You shall provide to the Seller a copy of the account statement on a monthly basis.
- 6 The balance on the Escrow Account shall earn interest at such rate and on such terms as may be agreed between you and the Purchaser from time to time. Interest shall be paid [annually/monthly] by you into the Escrow Account.
- 7 The Purchaser will pay your costs in respect of your duties under or in respect of this letter and the maintenance of the Escrow Account as such costs may be agreed between you and the Purchaser from time to time.

8 You acknowledge that security over the Escrow Account may be granted in favour of any lenders to the Seller, and the rights of such lenders will prevail over any rights you may have over the Escrow Account or the funds standing to the credit of the Escrow Account.

9 This letter and any contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, English law.

Please countersign this letter to confirm your acceptance of the terms set out above.

**[Purchaser]**

**[Seller]**

By:

By:

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We confirm our acceptance of the terms of this letter.

**[Name of Escrow Agent]**

Escrow Agent

By:

**Schedule 12**  
**Insurances<sup>76</sup>**

The Seller shall ensure that the following insurances are effected and maintained in full force and effect in accordance with the provisions of Clause 10.4 (*Insurance undertakings*) and this Schedule 12 (*Insurances*).

[Each policy of insurance shall include a Loss Waiver clause and shall, where available, not include any other exclusions pursuant to which insurers may purport that their liability to make payments is excluded by operations of Clause 15.8 (*Provisions relating to Insurance Proceeds*) or termination payments under the Government Support Agreement.]

[**Note: Wording to be confirmed by insurance advisor.**<sup>77</sup>]

**1 CONSTRUCTION PHASE**

1.1 Erection/Construction All Risks, based on full contract value and including:

- 1.1.1 Strike, Riot & Civil Commotion
- 1.1.2 Debris Removal
- 1.1.3 Extra Expenses
- 1.1.4 Extended Maintenance Period
- 1.1.5 Third Party Liability
- 1.1.6 Marine Cargo (including war) on transportation of key plant/equipment

**2 OPERATIONS PHASE**

- 2.1.1 Fire and named perils (including natural perils, and Strike, Riot & Civil Commotion) or Property All Risks, based on new replacement cost of assets
- 2.1.2 Machinery Breakdown

**3 AT ALL TIMES**

All insurances required by applicable laws and regulations such as Workers' Compensation and Employers' Liability insurance in relation to all workmen employed in the construction of the Project, and motor vehicle liability insurance for all vehicles owned, hired, leased, used or borrowed for use in connection with the Project.

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<sup>76</sup> **Note:** The insurance advisor and technical advisors should be consulted in relation to specific insurance obligations which should be considered in relation to the BESS component of this PPA.

<sup>77</sup> **Note:** Please refer to drafting notes for an example of language to be provided by the insurance advisor for this schedule.

**Schedule 13**  
**Form of Independent Engineer Agreement**

This **INDEPENDENT ENGINEER AGREEMENT** (this "**Agreement**") is made on \_\_\_\_\_ between:

- (1) **[NAME OF PURCHASER]**, a [type of company] established in [country] whose [registered office/principal place of business] is at [address] [and whose registered number is [number]] (the "**Purchaser**");
- (2) **[NAME OF SELLER]**, a [type of company] established in [country] whose [registered office/principal place of business] is at [address] [and whose registered number is [number]] (the "**Seller**"); and
- (3) **[INDEPENDENT ENGINEER]**, a [type of company] established in [country] whose [registered office/principal place of business] is at [address] [and whose registered number is [number]] (the "**Independent Engineer**"),

(each a "**Party**" and together the "**Parties**").

**Background**

- (A) The Government has conducted a competitive tender for the Project, which has been awarded to the Seller pursuant to [specify law].
- (B) Pursuant to terms of the tender, the Seller has entered into a Power Purchase Agreement with the Purchaser dated [date] relating to the sale of the electrical energy generated from the Project (as amended from time to time) (the "**Power Purchase Agreement**").
- (C) It is a requirement of the Power Purchase Agreement that the PPA Parties jointly appoint an Independent Engineer to carry out the functions and duties assigned to the Independent Engineer in the Power Purchase Agreement.
- (D) The Independent Engineer is an independent expert willing to provide the Certification Services and the Additional Services to the PPA Parties.
- (E) The PPA Parties have agreed to jointly appoint the Independent Engineer, and the Independent Engineer is willing to fulfil the role of "Independent Engineer" under the Power Purchase Agreement in accordance with the terms of this Agreement.

**1 Definitions**

Unless inconsistent with the context, terms defined in the Power Purchase Agreement which are used herein have the meanings given in the Power Purchase Agreement and the rules of interpretation as set out in Clause 1.2 (*Interpretation*) of the Power Purchase Agreement, and the words and expressions set forth below shall bear the following meanings and cognate expressions shall bear corresponding meanings:

"**Additional Services**" means the services to be performed by the Independent Engineer in terms of clause 6.2 (*Additional Services*).

"**Affiliate**" means, in respect of a person, any person which Controls (directly or indirectly) that person and any other person Controlled (directly or indirectly) by such first-mentioned person,

including, where a person is a company, the ultimate holding company of such person, any holding company of such person and any subsidiary (direct or indirect) of such holding company.

"**Business Day**" means a day, other than a Saturday or a Sunday or an official public holiday in [country] or [country of incorporation of Independent Engineer].

"**Certification Services**" means the services to be performed by the Independent Engineer in terms of clause 6.1 (*Certification Services*).

"**Change in Control**" means any change whatsoever in Control, whether effected directly or indirectly, excluding any change of Control in respect of a company listed on a stock exchange.

"**Contractors**" means any contractor directly engaged by the Seller to undertake the whole or any part of the construction, operation and/or maintenance of the Complex.

"**Complex Completion Form**" has the meaning in clause 6.1.4 (*Complex Completion Form*).

"**Control**" means the power, directly or indirectly, to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities or any interest carrying voting rights, or to appoint or remove or cause the appointment or removal of any directors (or equivalent officials) or those of its directors (or equivalent officials) holding the majority of the voting rights on its board of directors (or equivalent body), whether by contract or otherwise, and "**Controlled**" shall be construed accordingly.

"**Dispute**" means any dispute or difference of whatsoever nature arising under, out of, in connection with or in relation (in any manner whatsoever) to this Agreement or any documents entered into pursuant to it, including:

- (i) any dispute or difference concerning the initial or continuing existence of this Agreement or any provision thereof or as to whether this Agreement or any provision thereof is invalid, illegal or unenforceable (whether initially or otherwise);
- (ii) any dispute relating to any non-contractual obligation arising out of or in connection with the matters provided for in this Agreement; and
- (iii) any dispute or claim which is ancillary or connected, in each case in any manner whatsoever, to the foregoing.

"**Government Support Agreement**" means the government support agreement entered into between the Seller and the [name of Government] dated [●].

"**Independent Engineer's Group**" means the Independent Engineer and its Affiliates.

"**Limit of Liability**" means, in relation to:

- (i) any claims of the Seller or the Independent Engineer against the other of them, an amount equal to [●]<sup>78</sup>; and
- (ii) any claim of the Purchaser against the Independent Engineer, an amount equal to the higher of:

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<sup>78</sup> **Note:** This amount is the amount agreed between the Seller (and its funders) and the Independent Engineer.

- (a) 100 per cent. of the aggregate fees (excluding VAT) paid or to be paid to the Independent Engineer for the Certification Services (calculated as if all the contemplated Certification Services are completed), and
- (b) 100 per cent. of the aggregate fees (excluding VAT) paid or to be paid to the Independent Engineer in the 12 months preceding the date on which the claim arises,

less any amounts previously claimed by the Purchaser from the Independent Engineer and which have been paid to the Purchaser in full.

**"Mechanical Completion Checklist"** means the checklist in the form set out in schedule 2 (*Mechanical Completion Checklist*) to be completed by the Independent Engineer for the purposes of determining whether the Mechanical Completion Test has been completed.

**"PPA Parties"** means the Purchaser and the Seller, and **"PPA Party"** shall, as the context requires, be a reference to either one of them.

**"Quarter"** means the three month period ending on 30 June, 30 September, 31 December and 31 March, or such shorter period as determined from the Effective Date under the Power Purchase Agreement until the first of the dates specified above.

**"VAT"** means and value added tax levied in terms of *[insert appropriate legislation]*.

## 2 **Appointment and Acceptance**

With effect from the date of this Agreement, the PPA Parties jointly appoint the Independent Engineer to perform the Certification Services and the Additional Services, and the Independent Engineer accepts such appointment on the terms and conditions set out herein.

## 3 **Duration of Agreement**

This Agreement shall commence on the date of this Agreement and, subject to clauses 11 (*Termination*) and 12 (*Breach of Agreement*), shall subsist until the termination or expiry of the Power Purchase Agreement.

## 4 **Consultation with the PPA Parties**

- 4.1 The Independent Engineer undertakes to perform the Certification Services and Additional Services in close consultation and, subject to clause 4.4, co-operation with the PPA Parties.
- 4.2 In the period between the date of this Agreement and the Commercial Operations Date, the Independent Engineer shall report to the PPA Parties in writing on a monthly basis on all those matters relating to compliance by the Seller with those of its obligations under the Power Purchase Agreement which are relevant for the purposes of completing the Complex Completion Form, including the E&S related obligations. Such reports are to be based, in general, on a review of the Seller's monthly progress reports.
- 4.3 The Independent Engineer shall report to the PPA Parties in writing on any anticipated delays that would or might reasonably prevent or hinder the Seller from achieving the Commercial Operations Date by the Scheduled Commercial Operations Date and, if the Seller does not

achieve the Commercial Operations Date by the Scheduled Commercial Operations Date, from achieving the Commercial Operations Date by the Longstop Commercial Operations Date.

4.4 The Independent Engineer shall comply with all reasonable instructions given to it by a PPA Party for the purposes of the Independent Engineer conducting the Certification Services and Additional Services, except and to the extent that:

4.4.1 such instruction, if given by the Purchaser, would or might reasonably, unjustifiably delay or prevent the issue of the Complex Completion Form; and/or

4.4.2 the Independent Engineer reasonably considers that any such instructions vary or might vary the Certification Services or the Additional Services or its responsibilities under this Agreement, or prejudice or might prejudice the exercise by the Independent Engineer of its professional, fair and impartial judgement under this Agreement.

4.5 In the event that a Dispute arises between either or both of the PPA Parties and the Independent Engineer in respect of any instructions given to the Independent Engineer in accordance with clause 4.4, such Dispute shall be referred to dispute resolution in terms of clause 13 (*Dispute Resolution*), save that where a Dispute arises between the PPA Parties in respect hereof, such Dispute shall be resolved in accordance with Clause 21 (*Dispute resolution*) of the Power Purchase Agreement.

4.6 All instructions to the Independent Engineer shall be given in writing by the relevant PPA Party copied to the other PPA Party.

4.7 Where the Power Purchase Agreement contemplates that instructions could be given to the Independent Engineer by either PPA Party, and the PPA Parties issue conflicting instructions to the Independent Engineer, the Independent Engineer shall inform both PPA Parties of this fact, and shall not commence with any Certification Service or Additional Service to which such instruction relates until the PPA Parties have issued a joint written statement to the Independent Engineer in which the instruction is clarified.

## 5 **Project Documents**

5.1 The Independent Engineer shall be deemed to have full knowledge and understanding of the Power Purchase Agreement and the Government Support Agreement to the extent necessary to perform its obligations in terms of this Agreement, and shall carry out the duties of the Independent Engineer prescribed in the Power Purchase Agreement and the Government Support Agreement.

5.2 Subject to clause 10 (*Confidentiality*), the Seller shall provide to the Independent Engineer all required or requested information that is necessary for the performance of the Certification Services and Additional Services and is available or ought reasonably to be available to the Seller. This information includes, but is not limited to, the following information (which shall be deemed to be available to the Seller):

5.2.1 a signed copy of the Power Purchase Agreement, including all Schedules thereto in completed form and all details of any change to the Scheduled Commercial Operations Date in accordance with the Power Purchase Agreement;

5.2.2 copies of all studies provided in the virtual data room as part of the tender for the Project;

- 5.2.3 copies of working drawings, schedules and specifications prepared by the Seller and Contractors sufficient to demonstrate compliance by the Seller and Contractors with the requirements of the Power Purchase Agreement;
- 5.2.4 detailed summaries of the Seller's quality control and quality assurance records;
- 5.2.5 information related to energy yield as appropriate and necessary for the Independent Engineer to discharge its obligations under this Agreement;
- 5.2.6 the progress reports of the Seller and any Contractors covering the Project implementation;
- 5.2.7 copies of the Seller's testing and commissioning procedures and reports;
- 5.2.8 copies of any engineering, procurement and construction agreements entered into by the Seller or its Contractors in relation to the Project;
- 5.2.9 the [ESIA,] [LRP,][RAP] and other E&S relevant documentation; and
- 5.2.10 as and when requested by the Independent Engineer, copies of data relating to the Project and any other information as reasonably necessary for the Independent Engineer to discharge its obligations under this Agreement.

5.3 Within five Business Days of termination of this Agreement in accordance with clause 11 (*Termination*) or clause 12 (*Breach of Agreement*) or the termination or expiry of the Power Purchase Agreement, the Independent Engineer shall deliver to the Seller all copies of the Power Purchase Agreement and as well as all other agreements, documentation, plans, drawings, records and any other materials made available to it by the Seller pursuant to this Agreement, with complete copies thereof to the Purchaser. Notwithstanding the foregoing, the Independent Engineer may retain one copy of any such materials if so required in terms of applicable laws or in connection with any Dispute referred for resolution pursuant to clause 13 (*Dispute Resolution*).

## 6 Certification Services and Additional Services

### 6.1 Certification Services

#### 6.1.1 Review of Commissioning procedures

The Independent Engineer shall review the Commissioning test procedures submitted by the Seller. Based on the conditions of the Power Purchase Agreement, the applicable test codes and standards, the manufacturers' recommendations and the accepted international industry practices, the Independent Engineer shall comment on the adequacy and appropriateness of the proposed test plans and procedures.

#### 6.1.2 Review of Key Components, Performance Ratio Values and Storage Capacity

The Independent Engineer shall audit the key components selected by the Seller from the options detailed in Part III (*Key Components and Contractors*) of Schedule 1 (*Seller specific information*) of the PPA in order to ensure the selected components are fully compliant with the technical requirements detailed in the RFP and PPA. As a part of this audit, the Independent Engineer should consider if any adjustments are required to the PV Plant Performance Ratio figures given in Part I (*General*) of Schedule 1 (*Seller specific information*) of the PPA and verify the Estimated PV Plant Performance Ratio

and the degradation factor associated therewith and the estimated storage availability and the degradation factor associated therewith.

### 6.1.3 Performance Test witnessing

The Independent Engineer shall undertake a single visit to the Site for [●] days for the Commissioning of the Complex, at the time of the PV Plant Performance Test, Storage Capacity Test and Roundtrip Efficiency Test in order to (as applicable):

- (i) Confirm mechanical completion by means of spot checks on the items listed in the Mechanical Completion Checklist and physical inspection of workmanship, connections and equipment;
- (ii) Confirm that the Functional Tests have been passed satisfactorily; by means of discussions with the Seller, the Construction Contractor, and confirmation of the existence of testing documentation and other evidence observed on-site; and
- (iii) Witness part of the PV Plant Performance Test; to confirm that it is undertaken in accordance to the approved testing procedures and assess the adequacy of the data collected by the different measurement systems and by the SCADA System;
- (iv) Witness the Storage Capacity Test to confirm that it is undertaken in accordance to the approved testing procedures and assess the adequacy of the data collected by the different measurement systems and by the SCADA System; and
- (v) Witness the Roundtrip Efficiency Test to confirm that it is undertaken in accordance to the approved testing procedures and assess the adequacy of the data collected by the different measurement systems and by the SCADA System.

### 6.1.4 Complex Completion Form

The Independent Engineer shall review the testing report and a complete set of recorded test data issued by the Seller upon the successful completion of the PV Plant Performance Test, Storage Capacity Test and Roundtrip Efficiency Test containing the test results and relevant analysis, in order to assess the validity of the performance testing. Within ten days after receiving such report and data, the Independent Engineer shall issue a certificate (the "**Completion Form**") confirming that, based on the information provided by the Seller, and exercising the skill and care consistent with this Independent Engineer Agreement:

- (i) the PV Plant Performance Test have been completed successfully;
- (ii) the PV Plant Achieved Capacity is as calculated by the Seller;
- (iii) the Storage Capacity Test has been completed successfully;
- (iv) in relation to a Storage Capacity Test, the BESS Achieved Capacity is as calculated by the Seller;
- (v) the Roundtrip Efficiency Test has been completed successfully; and
- (vi) the RTE Ratio is as calculated by the Seller.

**6.1.5 [Environmental and Social Matters**

- (i) The Independent Engineer shall:
  - (a) review for compliance with the requirements of E&S Laws and the WB Performance Standards (in each case, as further guided by the EHS Guidelines):
    - (I) the ESIA to be prepared by the [Purchaser]/[Seller]<sup>79</sup> in accordance with Clause 2.6 (*Environmental and Social Conditions to Effectiveness*) of the Power Purchase Agreement (and drafts and revisions of the same); [and]
    - (II) <sup>80</sup>[the [RAP]/[LRP] to be prepared by the [Purchaser]/[Seller] in accordance with [Clause 2.6 (*Environmental and Social Conditions to Effectiveness*) of the Power Purchase Agreement]/[●]<sup>81</sup> (and drafts and revisions of the same);]

and, where any such assessment/plan is not compliant, (A) recommend changes to address any shortcomings and (B) review revisions to such documents as and when submitted to consider if the elements of non-compliance have been sufficiently rectified or addressed;

- (b) determine and confirm in writing whether:
  - (I) under Clause 5.1 (*Construction of the Complex and Purchaser Interconnection Facilities*) of the Power Purchase Agreement, all applicable portions of the [RAP]/[LRP] have been implemented in a manner consistent with E&S Law and WB Performance Standards, including whether compensation has been made available and, where applicable, resettlement sites and moving allowances have been provided, to physical and/or economic displaced persons;
  - (II) the portions of the [RAP]/[LRP] other than those described under (I) above have been implemented in a manner consistent with E&S Law and WB Performance Standards as guided by the EHS Guidelines according to the timeline defined in the [RAP]/[LRP].

Where the Independent Engineer cannot make such confirmation due to shortcomings in the implementation of any plan, the Independent Engineer shall recommend actions to address such shortcomings.

- (c) review for compliance with the requirements of the E&S Law, WB Performance Standards as further guided by EHS Guidelines, the ESMS and associated programs to be prepared by the Seller in accordance with Clause 10.7 (*Environmental and Social Management System*) and

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<sup>79</sup> Please consult with an E&S specialist as to whether the Purchaser or the Seller shall be responsible for the ESIA, as this may differ on a project by project basis.

<sup>80</sup> Please consult with an E&S specialist as to whether a RAP/LRP is needed and if so, whether the Purchaser or the Seller shall be responsible for the RAP/LRP, as this may differ on a project by project basis.

<sup>81</sup> Insert correct cross-reference depending on whether the RAP/LRP (if there is one) is a condition precedent to effectiveness to the PPA.

Schedule 15 (*Management Programs for Inclusion in ESMS*) of the Power Purchase Agreement (and drafts and revisions of any of the same) and when any of these aspects is not compliant recommend changes to address any shortcomings and review to confirm whether non-compliance has been rectified.

- (d) during construction, [quarterly]<sup>82</sup>:
  - (I) review environmental and social management, monitoring and reporting undertaken by the Seller; and
  - (II) inspect the Site, review grievance logs and interview representatives of affected communities,

in each case, as needed to ascertain whether the Seller's activities are in compliance with E&S Laws and the WB Performance Standards as further guided by the EHS Guidelines;

- (e) during the first Contract Year of operation, semi-annually:
  - (I) review environmental and social management, monitoring and reporting undertaken by the Seller; and
  - (II) undertake independent verification field monitoring and review grievance logs,

in each case, as needed to ascertain whether the Seller's activities are compliance with E&S Laws and the WB Performance Standards as further guided by the EHS Guidelines;

- (f) within 60 days following the end of the first year of operations, the Independent Engineer shall issue a report indicating whether:
  - (I) the Seller has constructed and is operating the Project in accordance with E&S Laws and the WB Performance Standards as further guided by the EHS Guidelines and has in place adequate procedures and practices to manage environmental and social risks and impacts; and
  - (II) the Purchaser and any relevant Government Authority is adequately equipped to monitor and enforce, and is effectively monitoring and enforcing, the parties' environmental and social obligations under the PPP Agreement.

If both of the foregoing conditions are met, there will be no need for further annual review. If at least one of the two foregoing conditions is not met, the parties will in good faith agree on a supplementary scope of work to be carried out by the Independent Engineer for a period up to the duration of the Project.]

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<sup>82</sup> Please discuss with an E&S specialist whether this can be reduced to semi-annually or needs to be increased to monthly/bi-monthly (e.g. because total lack of monitoring/enforcement by authorities of labour conditions or other project/country specific circumstances].

## 6.2 Additional Services

### 6.2.1 On-going support

The Independent Engineer shall provide impartial technical advice to the Seller and the Purchaser in case of issues or disputes of a technical nature arising under or in connection with the Power Purchase Agreement, on the written request of either the Purchaser or the Seller copied to the other, including in relation to:

- (i) the approval of any changes proposed by the Seller to manufacturer or specification of any key equipment in connection with the Project, as submitted by the Seller or its sponsors in connection with the bid for the Project;
- (ii) the estimate of PV Plant Metered Energy and BESS Metered Energy as required by Schedule 5 (*Metering requirements*) of the Power Purchase Agreement;
- (iii) the calculation of the annual PV Plant Performance Ratio, Storage Availability Factor and RTE Ratio as required by Schedule 6 (*Commissioning of Complex and Testing*) of the Power Purchase Agreement;
- (iv) the calculation of the Deemed Storage Capacity as required by Schedule 9 (*Determination of payments*) of the Power Purchase Agreement;

### 6.2.2 Decommissioning and handback

The Independent Engineer shall provide the following services in connection with the expiry of the Power Purchase Agreement:

- (i) prepare and deliver the Project State of Repair Report and, provided it is required under the terms of the Government Support Agreement, approve the Decommissioning Programme (as such terms are defined in the Government Support Agreement); and
- (ii) determine whether the Seller has carried out:
  - (a) the reparations; or
  - (b) provided that decommissioning is required under the terms of the Government Support Agreement, the decommissioning,both in accordance with the provisions of the Government Support Agreement.

## 7 Obligations of the Independent Engineer

### 7.1 Performance of the Certification Services and the Additional Services

The Independent Engineer shall carry out and complete the Certification Services and the Additional Services in accordance with the requirements of this Agreement.

### 7.2 Standards for providing the Certification Services and the Additional Services

In carrying out its obligations under this Agreement, the Independent Engineer shall:

- 7.2.1** act fairly, impartially and independently and not as an arbitrator;

- 7.2.2 exercise that degree of skill, prudence, diligence and foresight which would reasonably and ordinarily be expected from a person in the renewable energy industry with skills in the relevant fields of engineering and E&S (in the application of WB Performance Standards and EHS Guidelines) seeking in good faith to comply with its contractual obligations and complying with all applicable laws and regulations, and any orders or directives of its governing authority;
- 7.2.3 owe a professional duty of care to the PPA Parties encompassing the standards set forth in clauses 7.2.1 and 7.2.2;
- 7.2.4 allocate and furnish adequate resources, including a sufficient number of qualified and experienced personnel to enable the Independent Engineer to comply with its obligations under this Agreement, and the Independent Engineer shall ensure that reasonable levels of care and responsibility will be exercised by all such personnel; and
- 7.2.5 co-operate with any other contractors, consultants, and service providers who may be engaged by the PPA Parties and schedule its performance of the Certification Services and the Additional Services so as to facilitate the overall requirements of the Project.

### 7.3 Limitation of liability

- 7.3.1 The liability of either PPA Party to the Independent Engineer and of the Independent Engineer to either PPA Party arising out of or in connection with this Agreement, shall be as detailed in this Agreement.
- 7.3.2 The Seller and the Independent Engineer acknowledge and agree that the Purchaser shall have no liability to either of them whatsoever in connection with the performance by the Seller and the Independent Engineer of their respective obligations under this Agreement and, without limiting the foregoing, the Seller shall be solely liable to the Independent Engineer for the payment of any fee, cost, claim or liability as may be due and payable to the Independent Engineer under this Agreement.
- 7.3.3 Subject to clause 7.3.7, the maximum liability of (a) each of the Seller and the Independent Engineer to the other of them under this Agreement and (b) save in respect of third party indemnified claims in terms of clause 7.3.6, the Independent Engineer to the Purchaser for any claim under this Agreement, shall in either case be limited to an aggregate amount equal to the applicable Limit of Liability.
- 7.3.4 No Party shall be liable to any other Party for any loss of profits, revenues or business opportunity or any indirect, special or consequential losses.
- 7.3.5 The Parties shall comply with their common law duties to mitigate any losses, liabilities, damages and claims they may have pursuant to this Agreement.
- 7.3.6 The Independent Engineer shall indemnify and hold harmless the Purchaser, the Seller, their Affiliates, and their respective officers, employees, consultants, agents and representatives (the "**Indemnified Parties**") against any and all claims by a third party which may be asserted against or suffered by any of the Indemnified Parties, which relate to any death, injury or loss or damage to property suffered by the relevant third party, to the extent resulting from any negligent act

or omission of the Independent Engineer and its respective officers, employees, consultants, agents and representatives, provided that the death, injury, loss or damage suffered by the relevant third party is not attributable to any act or omission of any one or more of the Indemnified Parties or to the failure of one or more of the Indemnified Parties to take reasonable steps to mitigate or avoid the death, injury, loss or damage in question.

**7.3.7** The limits on liability set out in this clause 7.3 (*Limitation of liability*) shall not apply in respect of:

- (i) any liability for death or personal injury resulting from the negligence of a Party, its officers, employees, consultants, agents or representatives;
- (ii) any liability for fraud or fraudulent misrepresentation by a Party, its officers, employees, agents or representatives; or
- (iii) any other liability to the extent which it cannot be lawfully excluded.

#### **7.4 Scope of authority**

The Independent Engineer shall have no authority or power to, amongst other things, incur liability on behalf of the PPA Parties, grant an extension of time under the relevant construction contracts or any other agreement or issue instructions on behalf of a PPA Party, in the absence of a written instruction from that PPA Party given in accordance with this Agreement, and then only to the extent consistent with that instruction.

#### **7.5 Compliance with laws**

**7.5.1** The Independent Engineer undertakes that the performance of all the Certification Services and the Additional Services hereunder shall comply with all applicable laws, including but not limited to, the health, safety, security and environmental requirements applicable to the Site and the Project.

**7.5.2** Subject to clauses 7.3.3 to 7.3.5, the Independent Engineer shall indemnify and hold harmless the PPA Parties from and against any and all liability arising by reason of the Independent Engineer and the Independent Engineer's employees' and agents' failure to comply with the applicable laws.

#### **7.6 Access to information**

**7.6.1** The Independent Engineer shall allow each of the PPA Parties access at all reasonable times and on reasonable prior written notice by the requesting PPA Party to technical records and documents prepared by or for the Independent Engineer in connection with the performance by the Independent Engineer of its obligations under this Agreement including any and all results of any test.

**7.6.2** The Independent Engineer shall be obliged to maintain such technical records and documents for a minimum period of five years from (i) the completion of the relevant Certification Service or Additional Service, or (ii) earlier termination of this Agreement.

**7.7 Responsibility of the Independent Engineer**

No enquiry, inspection, approval, sanction, comment, consent, decision or instruction by or on behalf of any one of the PPA Parties shall exclude or limit the Independent Engineer's obligation to act in accordance with the requirements of clause 7.2 (*Standards for providing the Certification Services and the Additional Services*).

**7.8 Timing for decisions**

On all matters properly referred to it for its review, decision or determination in accordance with the Power Purchase Agreement, the Independent Engineer shall give its review findings, decision or determination in writing within the time period referred to in the relevant provision of the Power Purchase Agreement or if no such period is prescribed, within a reasonable time period which in such latter event, shall be no later than 20 Business Days after being referred to the Independent Engineer. The Independent Engineer shall perform its functions under this Agreement reasonably and fairly and shall not unreasonably withhold or delay its review, decision or determination.

**7.9 Inducement**

The Independent Engineer shall not offer or give to or accept from any member, employee or representative of either PPA Party any gift or consideration of any kind.

**7.10 Insurance**

**7.10.1** The Independent Engineer shall obtain and maintain in effect, at its own cost and expense, such insurance coverage as is required by any applicable laws and the standards set forth in clause 7.2.2 with reputable insurers.

**7.10.2** The Independent Engineer shall as and when so requested by either PPA Party on reasonable written notice produce for inspection by the PPA Parties, documentary evidence from its insurers or auditors that such insurance is being properly maintained.

**7.11 Qualifications, experience and conflicts**

**7.11.1** The Independent Engineer represents and warrants to the PPA Parties as of the date of this Agreement and each day thereafter during the term hereof that:

- (i) it is duly qualified, skilled and experienced to conduct the Certification Services and the Additional Services in accordance with the standards referred to in this Agreement;
- (ii) the qualifications, skills and experience of all its personnel, contractors and contractors' personnel engaged from time to time in the conduct of such services shall be sufficient to conduct such services in accordance with the standards referred to in this Agreement;
- (iii) it is not rendering or providing any services to the Seller or any of its Affiliates in respect of or in connection with the Project other than pursuant to this Agreement; and
- (iv) it is not rendering or providing any services to any shareholder of the Purchaser, the Seller, any Construction Contractor (including any Specialized Battery Subcontractor), any O&M Contractor, any Battery Maintenance Contractor or

any Lenders or any Affiliate of any of them in respect of or in connection with the Project.

**7.11.2** The Parties acknowledge that the Independent Engineer's Group provide professional engineering, E&S and/or consultancy services internationally to clients other than the PPA Parties some of whom may have interests adverse to either PPA Party or their Affiliates, and each PPA Party hereby agrees that any member of the Independent Engineer's Group may at any time and from time to time provide professional engineering and/or consultancy services to any other clients who may have interests in any one or more renewable energy projects, subject at all times to and without limitation of the representations and warranties made by the Independent Engineer pursuant to clause 7.11.1 or its obligations pursuant to clause 10 (*Confidentiality*).

## **8 Obligations of the PPA Parties**

- 8.1 The PPA Parties shall render such assistance to the Independent Engineer as shall reasonably be required for the carrying out by the Independent Engineer of its obligations under this Agreement.
- 8.2 The Seller shall allow the Independent Engineer access to the Site and Complex at all times reasonably required in order for the Independent Engineer to carry out its obligations under this Agreement.
- 8.3 Subject to clause 12.1.1 (*Breach of Agreement*), in the event that a matter is referred to dispute resolution in terms of clause 13 (*Dispute Resolution*), the Independent Engineer shall continue with its Certification Services and Additional Services (as applicable) until the relevant Complex Completion Form or other work product has been issued.

## **9 Fees Payable and Payment**

- 9.1 The Seller shall be liable to pay the Independent Engineer for the Certification Services and Additional Services to be performed by the Independent Engineer hereunder on the terms and conditions set forth in schedule 1 (*Fees Payable and Conditions of Payment*). If there is any conflict between any provision of schedule 1 (*Fees Payable and Conditions of Payment*) and any provision of the main body of this Agreement, then the provision of the main body of this Agreement shall prevail.
- 9.2 The Independent Engineer acknowledges and agrees that the Purchaser shall not have any liability to the Independent Engineer in connection with the performance by the Seller or the Independent Engineer of its obligations hereunder.
- 9.3 The Independent Engineer acknowledges and agrees that it shall not be entitled to suspend its performance of the whole or any part of the Certification Services or the Additional Services pending the resolution of any Dispute between it and the Seller concerning any invoice submitted by the Independent Engineer or pending payment of any overdue amount by the Seller.
- 9.4 To the extent that the Independent Engineer performs any act without the written instructions of a PPA Party, without limiting the provisions of clause 12 (*Breach of Agreement*) such act shall be

for the cost of the Independent Engineer, unless such act is performed in response to any emergency relating to health, safety or the environment and is subsequently ratified by the Seller.

**10 Confidentiality**

10.1 The Independent Engineer undertakes to keep and hold confidential any information disclosed to it in performing its obligations under this Agreement and not to disclose the same to any other person in any way whatsoever without the prior written consent of the PPA Parties, and shall ensure that all such information shall be disclosed only to those of its and its Affiliates' advisors, agents, contractors, directors and employees who have signed undertakings of secrecy and confidentiality and who have a need to know such information for the purposes of performing their obligations in respect of this Agreement.

10.2 The Independent Engineer acknowledges and agrees to sign any non-disclosure agreements as may be required by Contractors, on reasonable and market-related terms. Should the Independent Engineer refuse to sign such non-disclosure agreement, the Seller, with the prior written consent of the Purchaser, shall be entitled to terminate this Agreement in terms of clause 11 (*Termination*).

10.3 The Independent Engineer undertakes to ensure that all copies of all reports generated by it will be identified by a specific number and that such numbers will be collated on a master distribution list to enable management of security of documents.

10.4 All information pertaining to the Project acquired by the Independent Engineer from the Purchaser or the Seller shall be treated as confidential by the Independent Engineer and:

**10.4.1** shall not be used by the Independent Engineer for any purpose other than the purpose of performing its obligations under this Agreement, save to the extent:

- (i) that such information is or comes into the public domain other than through breach of this Agreement by the Independent Engineer;
- (ii) required by any court, arbitrator, administrative tribunal or expert in the course of any proceedings in which the Independent Engineer appears before it;
- (iii) required by the rules or any recognised securities exchange upon which the share capital of the Independent Engineer (or any of its shareholders (direct or indirect)) is or is proposed to be from time to time listed or dealt in;
- (iv) as may be necessary to comply with any obligation it may have under applicable laws;

**10.4.2** shall not be reproduced, distributed or otherwise made available to any other party; and

**10.4.3** shall remain the property of the Purchaser or the Seller (as the case may be) and be returned to the Purchaser or the Seller (as the case may be) on demand,

unless otherwise agreed to by the PPA Parties.

## 11 Termination

### 11.1 Termination by the PPA Parties

The Seller shall be entitled to terminate this Agreement, upon written notice to the Independent Engineer, with the prior written consent of the Purchaser, in the following cases:

- 11.1.1 with immediate effect where the Power Purchase Agreement expires or is terminated in accordance with its terms;
- 11.1.2 with immediate effect if an order has been made for the winding-up, liquidation, business rescue or dissolution of the Independent Engineer (in any of these cases, where applicable, whether provisional or final and whether voluntary or compulsory);
- 11.1.3 on 30 days' prior written notice if a Change in Control of the Independent Engineer occurs without the consent of the PPA Parties (not to be unreasonably withheld or delayed);
- 11.1.4 on 10 days' written notice if the Parties are unable to agree on an updated rate, if applicable, in terms of schedule 1 (*Fees Payable and Conditions of Payment*);
- 11.1.5 on five days' prior written notice if the Independent Engineer unreasonably fails to issue the Complex Completion Form in accordance with clause 6.1.4 (*Complex Completion Form*) and fails to rectify the breach within 10 days of receipt of written notice by the Seller, copied to the Purchaser, identifying the failure and requiring that it be remedied;
- 11.1.6 with immediate effect if the Independent Engineer commits a material breach and fails to remedy the breach within 30 days of receipt of written notice by the Seller, copied to the Purchaser, identifying the breach and requiring that it be remedied;  
or
- 11.1.7 on 60 days' written notice, for convenience.

### 11.2 Termination by the Independent Engineer

The Independent Engineer shall be entitled to terminate this Agreement upon written notice to the PPA Parties in the following cases:

- 11.2.1 with immediate effect if the Seller fails to pay any amount due any outstanding to the Independent Engineer or a PPA Party commits a material breach, and such non-payment or breach remains unremedied within 30 Business Days of written notice to the PPA Parties, identifying the failure and requiring that it be remedied;  
or
- 11.2.2 on not less than 30 days' prior written notice, without cause or reason, at any time after [90] days following the Commercial Operations Date.

### 11.3 Replacement independent engineer

The PPA Parties acknowledge that Clause 4.3 of the Power Purchase Agreement requires a new independent engineer to be appointed in accordance with the provisions of Clause 4

(*Appointment of Independent Engineer*) of the Power Purchase Agreement, if the appointment of the Independent Engineer in terms of this Agreement terminates for any reason.

## 12 Breach of Agreement

12.1 In the event of a breach by the Independent Engineer of any of the terms and conditions of this Agreement, the PPA Parties shall be entitled to exercise all or any number of the following rights:

**12.1.1** if the Independent Engineer fails to remedy the breach within three Business Days after receiving written notice from the Seller, copied to the Purchaser, describing the breach, then the PPA Parties (acting jointly) may on written notice to the Independent Engineer:

- (i) suspend the obligations of the Independent Engineer under this Agreement; and
- (ii) in their sole discretion, appoint a third party of their choice (as set out in the Power Purchase Agreement) to carry out the obligations of the Independent Engineer under this Agreement, including the issuance of the Complex Completion Form in accordance with clause 6 (*Certification Services and Additional Services*);

**12.1.2** to claim specific performance from the Independent Engineer; and/or

**12.1.3** terminate this Agreement in accordance with clause 11.1 (*Termination by the PPA Parties*),

without prejudice to any other rights or remedies they may have under applicable laws, including their rights to claim any damages.

12.2 If the PPA Parties appoint a third party to carry out the obligations of the Independent Engineer under this Agreement during the period that they suspend the services of the Independent Engineer pursuant to paragraph (i) of clause 12.1.1 (*Breach of Agreement*), then the Independent Engineer shall forthwith following the issue of the notice of suspension give access to and make available all information specified in clause 5 (*Project Documents*) as may be in its possession or under its control to such third party.

12.3 If the PPA Parties terminate this Agreement for material breach on the part of the Independent Engineer, the Independent Engineer shall (at its own cost) comply with all reasonable instructions of the PPA Parties to assist and cooperate with any other person appointed by the PPA Parties to replace the Independent Engineer in resumption of the outstanding services of the Independent Engineer, which shall include handing over all information specified in clause 5 (*Project Documents*) as may be in its possession or under its control to such person.

12.4 Should the Independent Engineer dispute the existence of a breach the matter may be referred at the request of any Party to dispute resolution in terms of clause 13 (*Dispute Resolution*).

12.5 In the event of any breach by either PPA Party of the terms and conditions of this Agreement, the Independent Engineer shall, within five Business Days, give written notice to:

**12.5.1** the non-breaching PPA Party, specifying the particulars of such breach; and

**12.5.2** the breaching PPA Party, specifying the particulars of such breach and calling for rectification thereof;

12.6 In the event of the breaching PPA Party remaining in default after 30 Business Days of the written notice contemplated in clause 12.5.2, the Independent Engineer shall be entitled to:

**12.6.1** claim specific performance from the breaching PPA Party and claim such damages as it may have suffered;

**12.6.2** terminate this Agreement in accordance with clause 11.2 (*Termination by the Independent Engineer*) and claim all damages as it may have suffered from the breaching PPA Party.

12.7 The provisions of clauses 12.4 and 13 (*Dispute Resolution*) shall apply *mutatis mutandis* in the event of the PPA Parties disputing the existence of a breach entitling the Independent Engineer to the rights and remedies envisaged in clauses 12.5 and 12.6.

12.8 In the event that the existence of a breach is disputed in terms of clause 12.4 or clause 12.7 and referred to dispute resolution in accordance with clause 13 (*Dispute Resolution*), the PPA Parties may suspend the obligations of the Independent Engineer and the provisions of clause 12.1.1 shall apply *mutatis mutandis*.

### 13 **Dispute Resolution**

13.1 Any Dispute between the Parties in relation to this Agreement shall be resolved by arbitration conducted in English by a single arbitrator pursuant to the rules of the International Chamber of Commerce (such version as in force at the time of the Dispute), save that, unless the Parties agree otherwise:

**13.1.1** the seat of arbitration shall be London;

**13.1.2** in the event of a failure by the Parties to agree on the sole arbitrator within 14 days of one Party calling upon the other Parties to do so, the sole arbitrator shall be appointed by the International Chamber of Commerce;

**13.1.3** the arbitrator shall not be of the same nationality as any Party;

**13.1.4** without prejudice to the provisions of clause 13.1.1, the Parties shall be free to agree a mutually convenient and suitable location for the arbitration hearings. Failing such an agreement by the Parties, any hearings shall take place in London;

**13.1.5** the sole arbitrator shall draw up, and submit to the Parties for signature, the terms of reference within 21 days of receiving the file. The terms of reference shall not include a list of issues to be determined; and

**13.1.6** no Party shall be required to give general discovery of documents, but may be required only to produce specific, identified documents which are relevant to the Dispute.

13.2 Each Party irrevocably submits to the non-exclusive jurisdiction of the courts of England to support and assist the arbitration process pursuant to this clause 13 (*Dispute Resolution*) including, if necessary, the grant of interlocutory relief pending the outcome of that process.

14 **Notices**

14.1 **Writing and delivery**

Any notice or other communication in connection with this Agreement (each, a "**Notice**") shall be in writing, in English and delivered by hand, email or courier using an internationally recognised courier company.

14.2 **Addresses**

**14.2.1** A Notice to the Seller shall be sent to the following address, or such other person or address as the Seller may notify to the Purchaser and the Independent Engineer from time to time:

Name: [●]

Address: [●]

Email: [●]

Attention: [●] [Title]

**14.2.2** A Notice to the Purchaser shall be sent to the following address, or such other person or address as the Purchaser may notify to the Seller and the Independent Engineer from time to time:

Name: [●]

Address: [●]

Email: [●]

Attention: [●] [Title]

**14.2.3** A Notice to the Independent Engineer shall be sent to the following address, or such other person or address as the Independent Engineer may notify to the Seller and the Purchaser from time to time:

Name: [●]

Address: [●]

Email: [●]

Attention: [●] [Title]

14.3 **Time of receipt**

A Notice shall be effective upon receipt and, for these purposes, shall have been received or deemed to have been received:

**14.3.1** at the time of delivery, if delivered by hand or courier; or

**14.3.2** at the time of sending, if sent by email, provided that receipt shall not occur if the sender receives an automated message indicating that the email has not been delivered to the recipient.

**15 General**

15.1 Subject to clause 15.3, the Independent Engineer shall not sub-contract, assign, grant any security interest over, hold on trust or otherwise transfer the benefit of the whole or any part of this Agreement to any other person or entity without the prior written consent of the PPA Parties.

15.2 The provisions of Clause 19 (*Transfer and assignment*) of the Power Purchase Agreement shall be applicable *mutatis mutandis* to the PPA Parties under this Agreement.

15.3 The Independent Engineer may sub-contract the whole or any part of the tests and inspections described in clause 6 (*Certification Services and Additional Services*), provided that the Independent Engineer shall not be relieved of any obligation, responsibility or liability under this Agreement in respect of such sub-contracted activities and shall be responsible under this Agreement for payment, performance, acts, defaults, omissions, breaches and negligence of all its sub-contractors.

15.4 Nothing in this Agreement shall be deemed to constitute a partnership between the Parties or constitute any Party the agent of any other Party for any purpose.

15.5 No variation of this Agreement shall be effective unless in writing and signed by or on behalf of each Party.

15.6 No failure or delay by any Party in exercising any right or remedy provided under this Agreement shall operate as a waiver of it, nor shall any single or partial exercise of any right or remedy preclude any other or further exercise of it or the exercise of any other right or remedy. Any waiver of a breach of this Agreement shall not constitute a waiver of any subsequent breach.

16 This Agreement may be entered into in any number of counterparts, all of which, taken together, shall constitute one and the same instrument. Any Party may enter into this Agreement by executing any such counterpart.

16.1 A person who is not a Party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of, or enjoy any benefit under this Agreement.

16.2 This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law.

**In witness** whereof this Agreement has been executed on the date first stated above.

**[INSERT APPROPRIATE SIGNATURE BLOCKS FOR EACH OF SELLER, PURCHASER AND INDEPENDENT ENGINEER.]**

Executed by [**SELLER**] acting by:

.....

Name:

Title:

Executed by **[PURCHASER]** acting by:

.....

Name:

Title:

Executed by **[INDEPENDENT ENGINEER]** acting by:

.....

Name:

Title:

## Schedule 1 to Independent Engineer Appointment Letter

### Fees Payable and Conditions of Payment

#### 1 Certification Services

##### 1.1 For the Certification Services:

**1.1.1** the Seller shall pay to the Independent Engineer [a fixed amount of [●]] excluding VAT for the Certification Services (the "**Fee**"). Such fee shall be [inclusive/exclusive] of any disbursements for out-of-pocket expenses;

**1.1.2** subject to this paragraph 1, the Fee shall be paid to the Independent Engineer by the Seller on the following basis:

(i) [●] per cent. of the Fee will be retained as a retention amount until the final Complex Completion Form has been issued (the "**Retention Amount**").

(ii) subject to paragraph 1.2 of this schedule 1, the total Fee less the Retention Amount, will be divided into [●] payments based on the estimated period between the date of this Agreement and the Scheduled Commercial Operations Date, to be paid [●] in arrears.

1.2 The Seller shall review the [●] payments on a [●] basis. At the end of each Quarter to the extent that there has been a change in the Scheduled Commercial Operations Date during any Quarter (the "**Revised Scheduled Commercial Operations Date**"), the [●] fee payable by the Seller to the Independent Engineer shall be the total remaining fee (that is, the Fee less any payments made up until the date of the determination that such change is made less the Retention Amount) divided by the number of remaining [●] until the Revised Scheduled Commercial Operations Date.

#### 2 Additional Services

##### 2.1 For any Additional Services:

**2.1.1** the fee charged by the Independent Engineer shall be based on an [●] rate;

**2.1.2** not later than [●] months prior to the commencement of each Contract Year following the Commercial Operations Date, the Independent Engineer shall submit to the Seller its proposed [●] rate for the next Contract Year;

**2.1.3** the Seller and the Independent Engineer shall attempt to agree on the new [●] rate proposed by the Independent Engineer. Should the Seller and the Independent Engineer fail to agree such new [●] rate, the Seller shall be entitled to terminate this Agreement in accordance with clause 11.1.4;

**2.1.4** the [●] rate charged by the Independent Engineer for the period prior to the Commercial Operations Date and for the first Contract Year following the Commercial Operations Date shall be [●];

- 2.2 For all Additional Services provided, the Independent Engineer shall submit to the Seller an invoice for payment, duly signed by the Independent Engineer, together with a written report detailing the Additional Services provided for acceptance by the Seller.
- 2.3 Within [●] Business Days of receipt of the invoice and written report in accordance with paragraph 2.2 of this schedule 1, the Seller shall either approve such invoice or Dispute the invoice by providing written notice to the Independent Engineer, failing which it shall be deemed to have approved the invoice.
- 2.4 Where the Seller disputes an invoice, in whole or in part, the Seller shall set out in the notice to the Independent Engineer, pursuant to paragraph 2.3 of this schedule 1, the reasons why the invoice or part thereof is disputed. The amount not in Dispute shall be promptly paid as described in this schedule 1, and any disputed amount which is ultimately determined to have been payable shall be paid with interest at the Interest Rate. Without prejudice to the terms of clause 13 (*Dispute Resolution*), in the cases where an invoice is fully or partially disputed, the Seller and the Independent Engineer shall try to find an amicable resolution of their Dispute.
- 2.5 The Seller shall pay the invoice submitted by the Independent Engineer within [●] Business Days of approval or deemed approval thereof by the Seller.
- 2.6 If any overpayment of whatever nature has been made to the Independent Engineer, the Seller shall in its discretion either require the Independent Engineer to repay such amount to the Seller or the Seller shall be entitled to deduct such amount from any amounts due to the Independent Engineer.
- 2.7 [Every payment due and payable by either Party to the other pursuant to this Agreement shall be subject to VAT.]

Schedule 2 to Independent Engineer Appointment Letter

Mechanical Completion Checklist<sup>83</sup>

1 General information

<b>Plant:</b>	
<b>Location of the plant:</b>	
<b>Installed capacity (DC):</b>	
<b>EPC Contractor:</b>	
<b>Date:</b>	

2 Scope of the Mechanical Completion Test Verification

2.1 To confirm completion of the Mechanical Completion Test it has to be shown that the Complex is from the technical perspective in a "ready to operate" mode with all components installed and connected as per manufacturers' instructions and/or specifications. Accordingly the following information has to be completed:

2.1.1 **Table 1:** Complex key assets

2.1.2 **Table 2:** Check for compliance with Schedule 3 (*Complex – Minimum functional specifications and standards*) of the Power Purchase Agreement

2.1.3 **Table 3:** Check of the Complex

2.2 For practicality reasons the Complex shall be divided into sections. A section implies a part of the plant connected to one inverter station, including the panels, inverters, string combiner boxes, cables and accessories.

2.3 The check of site infrastructure, medium voltage system, power evacuation and monitoring system including weather station can be conducted for the Complex.

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<sup>83</sup> **Note:** Template checklist to be adapted by the Independent Engineer to fit the specific Project design.

Table 1: Complex key assets

<b>No of inverter stations (sections):</b>	
<b>Installed capacity (DC) of each section:</b>	

<b>Key component</b>	<b>Type</b>	<b>Quantity</b>	<b>Installed</b>	<b>Comment by IE</b>
<i>Modules</i>				
<i>BESS Batteries</i>				
<i>Inverters</i>				
<i>BESS Inverters</i>				
<i>Module tables (structures)</i>				
<i>String combiner boxes</i>				
<i>Low voltage AC cables</i>				
<i>Transformers - MV</i>				
<i>Transformers - HV</i>				
<i>Medium Voltage AC cables</i>				
<i>Monitoring system</i>				
<i>Weather station</i>				
<ul style="list-style-type: none"> <li><i>Solar irradiation sensor – global horizontal irradiation</i></li> </ul>				
<ul style="list-style-type: none"> <li><i>Solar irradiation sensor- in plane irradiation</i></li> </ul>				
<ul style="list-style-type: none"> <li><i>Temperature sensor</i></li> </ul>				
<ul style="list-style-type: none"> <li><i>Wind direction sensor</i></li> </ul>				
<ul style="list-style-type: none"> <li><i>Wind speed sensor</i></li> </ul>				
<i>Purchaser Interconnection Facilities</i>				

	<b>Signature</b>	<b>Date</b>
<b>EPC Contractor</b>		
<b>Project Company</b>		

IE		
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**Table 2: Compliance with Technical requirements in Schedule 3 (*Complex – Minimum functional specifications and standards*) of the Power Purchase Agreement**

Key technical requirement	Specification	PPA Compliant	Comment by IE
<b>Modules</b>			
<i>Model number, (prefixes and suffixes) complies with the PPA or has been approved by the IE.</i>			
<i>Product warranty available</i>			
<i>Linear degradation warranty.</i>			
<b>Inverters</b>			
<i>Model number, (prefixes and suffixes) complies with the PPA or has been approved by the IE.</i>			
<i>Product warranty</i>			
<i>Certification for Enclosure protection rating</i>			
<i>Temperature and moisture content control.</i>	-		
<i>Requirements for grid connection (Plant controller, automatic synchronisation; VAR controller)</i>			
<i>Elevation of Inverter station platform above the maximum historical flood level</i>			
<i>Visual inspection of shading effects due to inverter station</i>	-		
<b>Module mounting structure</b>			

<b>Key technical requirement</b>	<b>Specification</b>	<b>PPA Compliant</b>	<b>Comment by IE</b>
<i>Model number, (prefixes and suffixes) complies with the PPA or has been approved by the IE.</i>			
<i>Visual inspection to assess shading effects and inadequate ventilation of modules</i>			
<i>Visual inspection to check for any galvanizing defects, rust, cracks etc</i>			
<i>Visual inspection to check if structure is grounded</i>			
<i>Foundation test results (Bearing capacity or pull out tests) satisfactory?</i>			
<b>Power Transformer</b>			
<i>Manufacturer</i>			
<i>Type and rating</i>			
<i>Transformer protections</i>			
<i>Oil containment measures</i>			
<i>Type of cooling</i>			
<b>String combiner boxes</b>			
<i>Manufacturer</i>			
<i>Visual inspection to check if the following are provided</i>			

Key technical requirement	Specification	PPA Compliant	Comment by IE
<ul style="list-style-type: none"> <li>-Door switch interlock;</li> <li>-Over current protection;</li> <li>-Over Voltage protection;</li> <li>- String monitoring device connected to the plant control system;</li> <li>- Combiner box is grounded;</li> </ul>			
<p><i>Certification for Enclosure protection rating</i></p>			
<p><b>Cables</b></p>			
<p><i>Manufacturer</i></p>			
<p><i>Type and rating DC Cables</i></p>			
<p><i>Type and rating of AC Cables</i></p>			
<p><b>MV/HV Switchgear</b></p>			
<p><i>Manufacturer</i></p>			
<p><i>Type</i></p>			
<p><i>Visual inspection to check if adequately located and adequate facilities (air conditioning, ventilation, fire protection measures) provided;</i></p>			
<p><b>Earthing and Lighting system</b></p>			
<p><i>Results of resistivity test; Visual inspection to check if lightning protection is provided</i></p>			
<p><b>SCADA system</b></p>			
<p><i>Manufacturer</i></p>			

<b>Key technical requirement</b>	<b>Specification</b>	<b>PPA Compliant</b>	<b>Comment by IE</b>
<i>Datasheet/specification review to check compliance with PPA requirements.</i>			
<b>Meteorological station</b>			
<i>Number of stations</i>			
<i>Solar irradiation sensor – global horizontal irradiation</i>			
• Manufacturer			
• Type and Quantity			
<i>Solar irradiation sensor- in plane irradiation</i>			
• Manufacturer			
• Type and Quantity			
<i>Temperature sensor</i>			
• Manufacturer			
• Type and Quantity			
<i>Anemometer</i>			
• Manufacturer			
• Type and Quantity			
<i>Humidity Sensor</i>			
• Manufacturer			
• Type and Quantity			
<i>Datalogger</i>			
• Manufacturer			
• Type and Quantity			
<i>Valid calibration certificates of above sensors available?</i>			

<b>Key requirement</b>	<b>technical</b>	<b>Specification</b>	<b>PPA Compliant</b>	<b>Comment by IE</b>
<b>Emergency /UPS</b>	<b>Generator</b>			
	<i>Manufacturer</i>			
	<i>Auxiliary loads supplied</i>			
<b>Buildings</b>				
	<i>Number of buildings</i>			
	<i>Visual inspection to check if adequate facilities (air conditioning, ventilation, fire protection measures) provided;</i>			
<b>Fence</b>				
	<i>Minimum requirements as per PPA installed;</i>			
	<i>Height of fence</i>			
	<i>Internal fences installed?</i>			
	<i>Visual inspection to check if metallic components are grounded.</i>			
<b>Drainage</b>				
	<i>Design includes segregated systems as per PPA</i>			
<b>Roads</b>				
	<i>Traffic management plan available?</i>			
	<i>Drainage ditch provided?</i>			
	<i>Visual inspection to check if the road condition is satisfactory?</i>			
<b>Surveillance</b>				
	<i>Manufacturer</i>			

<b>Key technical requirement</b>	<b>Specification</b>	<b>PPA Compliant</b>	<b>Comment by IE</b>
<i>Model and Quantity of CCTV cameras</i>			
<i>Location</i>			
<i>Certification for Enclosure protection rating</i>			
<i>Lightning protection provided?</i>			
<b>Purchaser Interconnection Facility</b>			
<b>BESS Metering system</b>			
<i>Type and Quantity</i>			
<i>Location</i>			
<i>Other requirements as outlined in the PPA</i>			
<b>PV Plant Metering system</b>			
<i>Type and Quantity</i>			
<i>Location</i>			
<b>Other requirements as outlined in the PPA</b>			
<i>[Placeholder for Inverters BESS technical standards]</i>			
<i>[Placeholder for Inverters BESS technical standards]</i>			

	<b>Signature</b>	<b>Date</b>
<b>EPC Contractor</b>		
<b>Project Company</b>		
<b>IE</b>		

Table 3: Check of the Complex<sup>84</sup>

<b>(A) Site infrastructure</b>					
<b>No</b>	<b>Aspect</b>	<b>Pass</b>	<b>Fail</b>	<b>Comments</b>	<b>Punchlist item</b>
<b>1</b>	<b>Site</b>				
	<i>Drainage system installed</i>				
	<i>Accessibility and roadway system</i>				
	<i>Debris removed</i>				
	<i>Restoration of environment/landscape mitigation</i>				
	<i>Vegetation (Does it cause shading?)</i>				
	<i>Panel clearance (spacing from boundaries)</i>				
	<i>Staff facilities and control room</i>				
	<i>Other</i>				
<b>2</b>	<b>Fence and Gates</b>				
<b>2.1</b>	<b>Fence</b>				
	<i>Built in accordance with manufacturer's specifications</i>				
	<i>Workmanship fence</i>				
	<i>Workmanship posts and foundations</i>				
<b>2.2</b>	<b>Gate</b>				
	<i>Built in accordance with manufacturer's specifications</i>				
<b>2.3</b>	<b>Illumination</b>				
<b>2.4</b>	<b>Security system</b>				

<sup>84</sup> **Note:** To be updated to reflect the checks required in relation to the BESS as well as the PV Plant.

<b>(A) Site infrastructure</b>					
<b>No</b>	<b>Aspect</b>	<b>Pass</b>	<b>Fail</b>	<b>Comments</b>	<b>Punchlist item</b>
	<i>Built in accordance with manufacturer's specifications</i>				
	<i>Alarm release/ Remote access function/ Camera surveillance</i>				

<b>(B) PV Plant</b>					
<b>Section no:</b>		<b>Installed capacity (DC):</b>		<b>Transformer capacity:</b>	<b>Date:</b>
<b>No</b>	<b>Aspect</b>	<b>Pass</b>	<b>Fail</b>	<b>Comments</b>	<b>Punchlist item</b>
<b>1</b>	<b>Support structure</b>				
	<i>Built in accordance with plant layout</i>				
	<i>Spacing</i>				
	<i>Inspection of screws and anchors (tightening, any damages etc.)</i>				
<b>2</b>	<b>PV panels</b>				
	<i>All PV panels installed (total number as per table "key assets")</i>				
	<i>All PV panels connected in accordance with the EPC design</i>				
	<i>Visual inspection (damages or cracks)</i>				
<b>3</b>	<b>Cabling</b>				
<b>3.1</b>	<b>DC cables</b>				
	<i>Visual inspection cables and connectors, where possible</i>				
<b>3.2</b>	<b>AC cables</b>				
	<i>Visual inspection cables and connectors, where possible</i>				
<b>4</b>	<b>Inverters</b>				
	<i>Installed in accordance with manufacturer's specifications</i>				
	<i>Workmanship</i>				
	<i>Unusual noise from inverters</i>				
	<i>O&amp;M manual placed in inverters</i>				
	<i>Other</i>				

<b>(B) PV Plant</b>					
<b>Section no:</b>		<b>Installed capacity (DC):</b>		<b>Transformer capacity:</b>	<b>Date:</b>
<b>No</b>	<b>Aspect</b>	<b>Pass</b>	<b>Fail</b>	<b>Comments</b>	<b>Punchlist item</b>
<b>5</b>	<b>String Combiner boxes</b>				
	<i>Installed in accordance with manufacturer's specifications and plant layout</i>				
	<i>Foundations and mounting</i>				
	<i>Visual inspection</i>				
<b>6</b>	<b>Transformers</b>				
	<i>Installed in accordance with manufacturer's specifications and drawings</i>				
	<i>Other</i>				
<b>7</b>	<b>Medium Voltage/High Voltage Switchgear</b>				
	<i>Installed in accordance with manufacturer's specifications and drawings</i>				
	<i>Visual inspection</i>				
	<i>Check for electricals (fuses, control terminals, fuse holders, cable entry, cable glands and seals, breakers and protections etc.)</i>				
	<i>Other</i>				
<b>8</b>	<b>Monitoring system</b>				
	<i>Installed in accordance with manufacturer's specifications</i>				
	<i>Data recorder operational</i>				
	<i>Data transfer to SCADA and internet portal successful</i>				

<b>(B) PV Plant</b>					
<b>Section no:</b>		<b>Installed capacity (DC):</b>		<b>Transformer capacity:</b>	<b>Date:</b>
<b>No</b>	<b>Aspect</b>	<b>Pass</b>	<b>Fail</b>	<b>Comments</b>	<b>Punchlist item</b>
<b>9</b>	<b>Weather Station</b>				
	<i>Installed in accordance with manufacturer's specifications</i>				
	<i>Solar irradiation sensor and temperature sensor operational</i>				
	<i>Wind direction and wind speed sensor operational</i>				

**Schedule 14**  
**Form of Performance Bond**

[On the letterhead of the Bank]

To: [Purchaser]  
[Address]

Date: [ ] 20[ ]

Dear [ ]

1. You have awarded [●] (the **Seller**) the right to develop an approximately [●] MW photovoltaic solar power generation and battery energy storage system project at [●], [Country] on a build, own, operate and transfer basis and to supply electricity to you from that project on terms and conditions set out in an agreement entered into between you and the Seller (the **Power Purchase Agreement**). Capitalised terms in this guarantee have the same meaning that they have in the Power Purchase Agreement.
2. The Power Purchase Agreement contains an obligation on the part of the Seller to provide a bank guarantee (**Performance Security**) in the amount of [●] (the **Maximum Amount**) reducing to zero on the Commercial Operations Date.
3. We, [ Bank], irrevocably and unconditionally undertake with you on receipt of the first demand to the Bank declaring that:
  - (a) the Power Purchase Agreement has been terminated in accordance with clause 17 of the Power Purchase Agreement prior to the Commercial Operations Date as a result of a Seller Event of Default; or
  - (b) the Commercial Operations Date has not occurred and the Seller has failed to deliver an extended or replacement guarantee to you in accordance with clause 2.5.3 of the Power Purchase Agreement,

we will, notwithstanding any objection which may be made by the Seller immediately pay to you an amount stated in such demand (a **Demand**), without proof or conditions provided solely that the amounts payable under the Performance Security shall not (when aggregated with any amount(s) previously paid) exceed the Maximum Amount. No further supporting statement under Article 15(a) of the URDG shall be required.

4. This Performance Security is valid from the date of this letter for the full amount payable under the Performance Security from time to time, and continues to be fully valid with respect to any notice to us referred to above until [●] (the **Expiry Date**). Provided that there is no unpaid Demand outstanding under the Performance Security it will be returned to the Seller on the Expiry Date.
5. Any payment(s) by us in accordance with this Performance Security will be in immediately available and freely transferable [*insert currency*] free and clear of and without any deduction for or on account of any present or future taxes, levies, imposts, duties, charges, fees, set off, counterclaims, deductions or withholdings of any nature whatsoever and by whomsoever imposed.
6. Our obligations under this Performance Security constitute direct primary, irrevocable and unconditional obligations. Our obligations will not require any previous notice to or claim against the Seller and will not be discharged or otherwise prejudiced or adversely affected by any time,

indulgence or forbearance which you may grant to the Seller; any amendment, modification or extension which may be made to the Power Purchase Agreement or the obligations of the Parties under the Power Purchase Agreement; any intermediate payment or other satisfaction made by us; any change in the constitution or organisation of the Seller; or any other matter or thing which in the absence of this provision would or might have that effect, except a discharge or amendment expressly made or agreed to by you in writing.

- 7. Any notice required by this Performance Security is deemed to be duly given when delivered (in the case of personal delivery) or 96 hours after being despatched by prepaid registered post or recorded delivery (in the case of letter).
- 8. This Performance Security and any non-contractual obligations arising out of or in connection with it are governed by English law and the parties irrevocably submit to the exclusive jurisdiction of the English Courts with respect to any dispute or difference arising out of or in connection with this Performance Security.
- 9. This Performance Security is subject to the Uniform Rules for Demand Guarantees 2010 revision, ICC Publication No. 758 (**URDG**).
- 10. This Performance Security is executed by us as a deed.

IN WITNESS of which the [ Bank] has duly executed this Performance Security as a deed on the date stated above.

**SIGNED** by XXXXXXXXXX [as attorney for  
 XXXXXXXXXXXXXXXXXXXX under power of  
 attorney dated XX XX XX] in the presence of:  
 ..... )  
 Signature of witness )  
 ..... )  
 Name of witness (block letters) )  
 ..... )  
 Address of witness )  
 ..... )  
 Occupation of witness )  
 )

.....  
 [By signing this deed the attorney states  
 that the attorney has received no notice of  
 revocation of the power of attorney.]

Address for notices  
 [ ]

**Schedule 15**  
**Management Programs for Inclusion in ESMS**

The environmental and social management programs define mitigation and performance improvement measures and actions that address identified E&S risks and impacts and define detailed timelines for implementation of specific measures and the responsible party (the Seller, the Construction and/or O&M Contractors, as relevant). The programs shall consist of documented combination of operational procedures, practices, plans and relevant supporting documents. The programs, as necessary for construction and operation, shall address, at a minimum:

1. Safety management, including emergency preparedness and response and life and fire safety;
2. Occupational health and safety (OHS) management, including, at a minimum:
  - site-wide OHS risk management, including coordination between the Seller and any contractors and subcontractors;
  - systems for job and task-specific hazard analysis and controls for all activities;
  - provision of personal protection equipment (PPE), requirements for use of PPE and enforcement of PPE use;
  - induction and ongoing safety training for all personnel in their language, covering hazards and safety protocols of their jobs;
  - special training for specific hazards, e.g., working at heights, working in excavations with electricity, etc.;
  - arrangements in place to manage OHS incidents, including first aid arrangements, emergency response plans and system for reporting and acting on 'near misses';
  - provision for emergency medical treatment;
  - system for recording incident statistics, including total work hours, lost time incidents, major injuries, fatalities, etc.;
3. Traffic management including safety impacts and impacts of noise and dust on settlements through which traffic is directed, including roads needed for transport of solar panels from entry point;
4. Surface water management and erosion control;
5. Water resource management to minimise Project impacts on availability and sustainability of local water resource and promote efficient water use and recycling;
6. Solid waste management. If waste services will be contracted directly, hire only licensed companies with valid permits for waste transportation /treatment and disposal;
7. Pollution prevention and spill response and hazardous materials management, including the handling and storage of construction material and waste, mitigation of excessive dust and noise pollution, and handling and storage of herbicides and pesticides. If waste services will be contracted directly, hire only licensed companies with valid permits for waste transportation /treatment and disposal;

8. [Biodiversity monitoring in respect of the Purchaser Interconnection Facilities, including wildlife monitoring, adaptive management, and rescue procedures;
9. Labour influx management;
10. Construction workers accommodation management in line with WB Performance Standards];
11. Local recruitment to facilitate on a best efforts basis employment from the local communities after having provided, as needed, adequate trainings to perform the tasks with the required skills, safety and in line with the EHS Guidelines;
12. Contractor/subcontractor management, including at a minimum:
  - Inclusion of relevant environmental and social requirements in contracts/subcontracts, including, but not limited to, the WB Performance Standards' provisions relevant to labour and working conditions (see also 16 below);
  - Clear assignment of the Seller's (on the one hand) and contractors' and subcontractors' (on the other hand) responsibilities with regard to environmental and social matters;
  - Contractor reports sufficient to allow Seller to include relevant data in its own reports to competent authorities and to allow the Seller and/or the Independent Engineer to evaluate whether corrective actions are required;
  - Verification of training and/or proper credentials for contractor staff/managers responsible for environmental and social matters; and
  - Procedures for active oversight of the implementation of these provisions.
13. Stakeholder engagement plan in line with the requirements of WB Performance Standard 1 to raise awareness about the Project and its short-term and long-term benefits and impacts, as well as to address management of expectations from the community on local hiring. Socially disadvantaged and marginalised groups will be consulted (e.g. inhabitants of a residential areas with high rates of unemployment in close proximity to the proposed project site);
14. Human resources policy and management plan in line with national legislation and the requirements of WB Performance Standard 2, promoting fair, safe and healthy labour and working conditions and promoting equal opportunity and non-discrimination of workers, and safeguarding against sexual exploitation and abuse and all forms of gender based violence among the workforce and towards the affected communities;
15. Code of conduct for security personnel hired for the project to ensure:
  - Screening of security personnel for implication in past abuses;
  - Adequate training of security personnel in the use of force and appropriate conduct toward the communities, the public and the workers;
  - Investigation of incidents;
16. Management systems through which the Seller conducts due diligence to identify, account for, and manage the risk of forced labour (as defined in paragraph 22 of PS2), or if delegating the

responsibility of purchasing PV panels to a third party, to require a representation and covenant with respect to the same;

17. Chance find procedure in line with WB Performance Standard 8 to be applied in the event cultural heritage is discovered during the lifetime of the Project and in particular construction.

**Schedule 16**  
**ESIA Terms of Reference**

**Schedule 17  
Potential Energy Charge and/or Capacity Charge Adjustment Table<sup>85</sup>**

<u>Base Rate Change</u>	<u>Percentage Energy Charge Change</u>	<u>Percentage Capacity Charge Change</u>
-2.00%	[X]	[X]
-1.90%	[X]	[X]
-1.80%	[X]	[X]
-1.70%	[X]	[X]
-1.60%	[X]	[X]
-1.50%	[X]	[X]
-1.40%	[X]	[X]
-1.30%	[X]	[X]
-1.20%	[X]	[X]
-1.10%	[X]	[X]
-1.00%	[X]	[X]
-0.90%	[X]	[X]
-0.80%	[X]	[X]
-0.70%	[X]	[X]
-0.60%	[X]	[X]
-0.50%	[X]	[X]
-0.40%	[X]	[X]
-0.30%	[X]	[X]
-0.20%	[X]	[X]
-0.10%	[X]	[X]
0.00%	[X]	[X]
0.10%	[X]	[X]
0.20%	[X]	[X]
0.30%	[X]	[X]
0.40%	[X]	[X]
0.50%	[X]	[X]
0.60%	[X]	[X]
0.70%	[X]	[X]
0.80%	[X]	[X]
0.90%	[X]	[X]
1.00%	[X]	[X]
1.10%	[X]	[X]
1.20%	[X]	[X]
1.30%	[X]	[X]
1.40%	[X]	[X]
1.50%	[X]	[X]
1.60%	[X]	[X]
1.70%	[X]	[X]
1.80%	[X]	[X]
1.90%	[X]	[X]
2.00%	[X]	[X]

<sup>85</sup> **Note for teams:** The tariff adjustment in this table (% change in tariff), based on the change in base rate, is to be reviewed by teams on a country by country basis before PPA is issued.