

FORMAT 4.10: Enclosure 2

DEFAULT ESCROW AGREEMENT

FOR

____ MW SOLAR POWER

FROM

GRID CONNECT SOLAR PV POWER PLANT

**TO BE SET UP AT Tehsil _____, District _____,
UttarPradesh, India**

DEFAULT ESCROW AGREEMENT
Dated [insert date], 2014

DEFAULT ESCROW AGREEMENT

Between

Uttar Pradesh Power Corporation Ltd. (UPPCL), Lucknow
("Procurer")

And

M/s. _____ ("Seller")

And

[Insert name of the Escrow Agent] ("Escrow Agent")

And

[insert name of Bank]
[insert name of Bank]
[insert name of Bank]
[insert name of Bank]

("Procurers' Banks")

___ MW Solar PV Power Project at Tehsil _____, District _____,

Uttar Pradesh, India

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This DEFAULT ESCROW AGREEMENT made this [insert date], 2014 at Lucknow by and between:

1. **Uttar Pradesh Power Corporation Ltd., Lucknow**– a Company incorporated in India and registered under the Companies Act, 1956, having its registered office at Shakti Bhawan, 14 – Ashok Marg, Lucknow – 226 001 (herein after referred to as “**UPPCL**”, or “**Procurer**” which expression shall unless repugnant to or inconsistent with the context, mean and include its successors and permitted assigns) of the **FIRST PART**; and
2. **M/s** [Insert name of the Solar Power Producer], a company incorporated under the Companies Act 1956, having its registered office at [Insert address of the registered office of Solar Power Developer] (herein after referred to as “**Seller**” or “**Solar Power Producer or SPP**”, which expression shall, unless repugnant to or inconsistent with the context, mean and include its successors and permitted assigns) of the **SECOND PART**; and
3. [*insert name of Default Escrow Agent*], a [*insert nature of Default Escrow Agent*], with its registered office at [*insert address*], (hereinafter referred to as the “**Escrow Agent**” which expression shall, unless repugnant to or inconsistent with the context, mean and include its successors and permitted assigns) of the **THIRD PART**; and
4. The Persons whose names and details are provided in Schedule 1 (hereinafter collectively referred to as the “**Procurer’s Banks**” or “**Subsidiary Escrow Agents**” which expression shall, unless repugnant to or inconsistent with the context, mean and include their respective successors and permitted assigns) of the **FOURTH PART**

(Each of the parties of the **FIRST, SECOND, THIRD and FOURTH PART** above are individually referred to as a “**Party**” and collectively as the “**Parties**”).

WHEREAS:

- A. Uttar Pradesh Solar Power Policy, 2013 has been issued by Government of Uttar Pradesh for promoting the Solar Energy in Uttar Pradesh.
- B. Uttar Pradesh Power Corporation Ltd. (UPPCL) – a Company incorporated in India and registered under the Companies Act, 1956, hereinafter referred to as “Procurer”, will directly purchase power generated from these selected 300 MW Solar PV Projects for 12 years.
- C. In accordance with the Competitive Bidding Guidelines, the Procurers, through UPNEDA, had initiated a competitive bidding process through issue of RfP for selecting a Successful Bidder to build, own, operate and maintain the Project.
- D. The -----(SPP) had registered itself with UPNEDA and after meeting the eligibility requirements and has got selected by UPNEDA for the construction, operation & maintenance and supply of power from the Solar PV project of capacity ___ MW [to be filled in on the basis of bid of the Selected Bidder] to the Procurer from Power Station to be located at Tehsil _____, District _____, Uttar Pradesh, India.
- E. Pursuant to the said bidding process, _____ [Insert name of Selected Bidder] has been identified by the Procurers, through UPNEDA, as the Selected Bidder to construct the Project for a Contracted Capacity of _____ [to be filled in based on Selected Bid] MW and sale and supply of electricity in bulk there from to the Procurers, in accordance with the terms of PPA.
- F. The Procurer has agreed to purchase the electricity injected at the injection point and to pay the Seller the Tariff (as defined in the PPA) set out in Article 9 of the PPA for such portion of the Available Capacity and dispatched Electrical Output of the Power Station as is made available to the Procurer and for such purposes, the Procurer and the Seller have entered into the PPA on or about the date hereof;
- G. In terms of the said PPA, the Procurer is required to duly secure the Seller by establishing an arrangement for securing the Secured obligations (as defined hereinafter) and the Seller and the Procurer have agreed on a default escrow mechanism for the payments of Secured Obligations under the PPA;
- H. The Procurer has appointed [*insert name of Default Escrow Agent*] as the Default Escrow Agent and each of the Procurer’s Banks as the Subsidiary Escrow Agents for the purposes of this Agreement; and
- I. The Procurer has issued standing and irrevocable instructions to the Subsidiary Escrow Agents to ensure the transfer of funds as provided herein.

NOW THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth in this Default Escrow Agreement and other considerations, the sufficiency and adequacy of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows

ARTICLE 1: DEFINITIONS AND INTERPRETATION

1.1. Definitions

1.1.1 Capitalised terms used but not defined in this Agreement, shall, in so far as the context admits, have the same meaning in this Agreement as has been ascribed to them in the PPA.

1.1.2 Additionally, the following terms shall have the meaning hereinafter respectively assigned to them:

“Agreement” means this Default Escrow Agreement entered into between the Procurer, the Seller and the Default Escrow Agent and Procurer’s Banks and the modifications, amendments or alterations thereto from time to time;

“Business Day” shall mean any day, which is not a bank or public holiday in the state of Uttar Pradesh;

“Charge Creation Date” shall have the meaning as ascribed thereto in Article 3.2.1 of this Agreement;

“Consumers” shall mean all the customers of the Procurer who are or who would be receiving electricity or energy or other related services from the Procurer and who are liable to make payments of any kind to the Procurer;

“Default Escrow Account” shall mean the default Escrow account opened with the Default Escrow Agent pursuant to Article 2.2.1 of this Agreement for the purposes of this Agreement;

“Distress Event” means an event where:

- (a) a liquidator has been appointed by a court of competent jurisdiction in a proceeding for the winding up of the Default Escrow Agent; or
- (b) a court of competent jurisdiction has made an order of winding up of the Default Escrow Agent other than for the purpose of amalgamation or reconstruction acceptable to the Seller, Procurer and the Lenders; or
- (c) an Indian Government Instrumentality, statutory body or a court of competent jurisdiction has issued or adopted any law, rule regulation or order or initiated any proceeding or otherwise taken any action which reasonably may be expected to have a material adverse effect on the ability of the Default Escrow Agent to satisfy its obligations under this Agreement.

“Dispute” shall have the meaning attributed thereto in Article 9.9.2 of this Agreement;

“Default Escrow Agent” or **“Escrow Agent”** shall mean the Procurer’s Bank referred to in Article 2.1.1 of this Agreement and who will represent all the Subsidiary Escrow Agents for the purposes of this Agreement and discharge obligations specified in this Agreement;

“Effective Date” shall mean the date falling on the day which is sixty (60) days prior to the original or revised scheduled commercial operation date of the first unit of the power station as defined in PPA;

“Event of Default” shall have the meaning set out in Article 8.1 of this Agreement;

“Fortnight” shall mean each continuous period of not less than fifteen (15) days;

“Agreement to Hypothecate Cum Deed of Hypothecation” shall mean the Agreement to Hypothecate Cum Deed of Hypothecation dated [] entered into between the Procurer and the Seller, a copy of which has been provided to the Default Escrow Agent and each of the Subsidiary Escrow Agents on execution of this Agreement;

“Month” means a period beginning at 00:00 hours midnight on the first (1st) day of a calendar month and ending at 24:00 hours midnight on the last day of such calendar month;

“Power Purchase Agreement” or **“PPA”** shall mean the agreement titled ‘Power Purchase Agreement’ dated _____ entered into between the Procurer and the Seller, as it may be amended from time to time;

“Procurer Account” shall have the meaning attributed thereto in Article 2.2.3b of this Agreement;

“Procurer’s Financing Parties” shall mean the banks and/or financial institutions and/or power producers, which have provided or propose to provide financial assistance and/or facilities to the Procurer including in particular the Procurer’s Banks and/or supply or propose to supply electricity to the Procurer and who have, for the repayment and/or discharge of obligations of the Procurer due to them, by way of a legally binding agreement been provided inter alia, security by way of a charge on the Receivables of the Procurer, the list of such parties and the details of charge on the Receivables as on the date of this agreement is annexed as Schedule 2;

“Procurer’s Banks” shall mean the banks who have been appointed by the Procurer as the Subsidiary Escrow Agents and instructed by the Procurer to receive Incremental Receivables deposited therein, and transfer the same, to the Default Escrow Account in accordance with the terms of this Agreement the list of such parties as existing on the Effective Date shall be provided herein as Schedule 1. Provided that, in case of addition or deletion or change in number of Procurer’s banks and Procurer’s bank account as per Article 3.5 of this Agreement, the Procurer’s Banks shall also be deemed to be modified accordingly;

“Receivables” shall mean all of the present and future payments, obligations monies, claims, bills and any other property whatsoever which may from time to time be derived from or accrue or be offered or due to the Procurer in respect of the sale by the Procurer to the Consumers of electric capacity, energy and / or services or for any other reason whatsoever and all proceeds thereof;

“Security” shall have the meaning ascribed thereto in Article 2.3.1 of this

Agreement;

“Incremental Receivables” shall mean the amount of the Receivables, in excess of the amounts which have already been charged or agreed to be charged in favour of the Procurer’s Financing Parties by way of a legally binding agreement, executed prior to the Date of Signing of this Agreement, provided such charge of the Procurer’s Financing Parties shall be limited to the extent of their outstanding exposure (including commitments for exposure) as on the Effective Date; “Procurer’s Bank Accounts” mean the bank accounts established and maintained in the Procurer’s Banks by the Procurer in which the Receivables are deposited;

“Secured Obligations” shall mean

- (a) the amounts due to the bank which had issued the Letter of Credit encashable by the Seller as per the terms of the PPA; and
- (b) obligation of the Procurer for making payments due under Article 11 and Article 14 of the PPA,

Provided that, the amounts due to the bank, which had issued the Letter of Credit, referred to in (a) above shall always have a priority over the amounts due and payable under (b);

“Seller Account” shall have the meaning attributed thereto in Article 2.2.3a of this Agreement;

“Subsidiary Escrow Accounts” shall mean the escrow accounts referred to in Article 2.2.2 hereof;

“Subsidiary Escrow Agents” shall mean the Procurer’s Banks.

1.2. Interpretation

Unless the context otherwise requires, the provisions of Article 1.2 of the PPA shall be deemed to be incorporated herein and shall apply for the purpose of this Agreement

ARTICLE 2: APPOINTMENT OF DEFAULT ESCROW AGENT AND ESTABLISHMENT OF ACCOUNTS

2.1. Default Escrow Agent

2.1.1 Appointment as agent

The Procurer has appointed [insert name of Escrow Agent] as the Default Escrow Agent for the purposes of this Agreement. The Seller hereby accepts the appointment of the [insert name of Escrow Agent], through its [insert location] branch, as the Escrow Agent and who shall act as agent of the Procurer and the Seller in connection with this Agreement and the Agreement to Hypothecate Cum Deed of Hypothecation for the purposes and in accordance with the terms and provisions set forth herein and therein. The Subsidiary Escrow Agent accepts the appointment of the Default Escrow Agent and agrees to take instructions from him for the purposes of meeting their respective obligations under this Agreement.

2.1.1.A. Appointment as Subsidiary Escrow Agent

The Procurer has appointed the Procurer's Banks as the Subsidiary Escrow Agents for the purposes of this Agreement. The Seller hereby accepts such appointment. Subsidiary Escrow Agents shall act as agents of the Procurer and the Seller in connection with this Agreement and the Agreement to Hypothecate Cum Deed of Hypothecation for the purposes and in accordance with the terms and provisions set forth herein and therein.

2.1.2 Acceptance of appointment

Each of the Escrow Agent and the Subsidiary Escrow Agents hereby accept their appointment and agree to act as a Default Escrow Agent and Subsidiary Escrow Agents respectively.

2.1.3 Primary obligation of the Default Escrow Agent

Except as otherwise provided in this Agreement, the Default Escrow Agent shall hold and safeguard, the Default Escrow Account and all of the monies on deposit therein during the term of this Agreement and shall treat such monies as deposited by the Procurer with the Default Escrow Agent, to be held in trust by the Default Escrow Agent for the commitments to the Seller and the Procurer and shall, in performing its functions and duties under this Agreement act as an agent for the Seller and the Procurer.

2.1.4 Primary obligation of the Subsidiary Escrow Agents

Except as otherwise provided in this Agreement, each of the Subsidiary Escrow Agents shall hold and safeguard, the Subsidiary Escrow Accounts and all of the monies on deposit therein during the term of this Agreement and shall treat such monies as deposited by the Procurer with the Subsidiary Escrow Agents, to be held in trust by the Subsidiary Escrow Agents for performing their functions and duties under this Agreement.

2.2. Establishment of Accounts

2.2.1 Establishment of the Default Escrow Account

The Procurer shall, within 30 days of the Effective Date establish in his name a special, segregated and irrevocable cash collateral account at the specified branch of the Default Escrow Agent which account shall be maintained at all times until the termination of this Agreement (hereinafter referred to as the "Default Escrow Account").

2.2.2 Establishment of the Subsidiary Escrow Accounts

On the Effective Date, all bank accounts of the Procurer which have been opened with the Procurer's Banks for depositing incremental receivables shall be deemed to have been designated by the Procurer as subsidiary escrow accounts (hereinafter referred to as the "Subsidiary Escrow Account/s") for the purposes of this Agreement

2.2.3 Seller and Procurer Accounts

No later than seven (7) days after the Effective Date:

- a. the Seller shall establish and maintain in its name an account at the branch of the Default Escrow Agent (hereinafter referred to as the "Seller Account"); and
- b. the Procurer shall establish and maintain in its name an account at the branch of the Default Escrow Agent or designate any of its then existing current account with the Default Escrow Agent (hereinafter referred to as the "Procurer Account") until the termination of this agreement.

2.3. Subsidiary Escrow Agents and Default Escrow Agent's obligations

2.3.1 The Procurer has, pursuant to the Agreement to Hypothecate Cum Deed of Hypothecation agreed to grant a paripasu charge/security interest in favour of the Seller on the Incremental Receivables (the "Security"). Upon the occurrence of an Event of Default mentioned in Article 8 (b), (d), (e) and (f) in accordance with the terms of this Agreement, the Subsidiary Escrow Agents shall ensure that all the Incremental Receivables available in their respective Subsidiary Escrow Accounts are transferred to the Default Escrow Account. On the occurrence of an Event of Default mentioned in Article 8 (b), (d), (e) and (f), the Default Escrow Agent shall ensure that all Incremental Receivables transferred by the Subsidiary Escrow Agents to the Default Escrow Account are transferred to the LC Account (as defined hereinafter) or the Seller Account or to the Procurer Account, in accordance with the terms of this Agreement. Immediately upon the occurrence of an Event of Default mentioned in Article 8 (b), (d), (e) and (f), all Subsidiary Escrow Agents shall prepare a statement listing out the amount of Incremental Receivables available with them and shall send such statement to Default Escrow Agent. For such calculation of Incremental Receivables, each Subsidiary Escrow Agent shall assume that only the amounts available in their respective accounts are available for meeting their outstanding claims which have become due (but are unpaid). Provided such outstanding claims shall only relate to the legally binding commitments which had been made prior to the Effective Date. The Procurers shall also immediately send to

the Default Escrow Agent, a list of the amounts due but unpaid to any other Procurer Financing Parties provided such amounts shall only relate to the legally binding commitments which had been made prior to the Effective Date. On the basis of the information received, the Default Escrow Agent shall determine the total amount of Incremental Receivables available and shall thereafter send instructions to the Subsidiary Escrow Agents to release an amount equal to the Incremental Receivables in accordance with the provisions of Article 5.3. The above process shall be repeated on a daily basis till the continuance of the Event of Default under Article 8 (b), (d), (e) and (f).

- 2.3.2 The Default Escrow Agent and the Subsidiary Escrow Agents shall provide to the Procurer and the Seller, no later than the fifteen (15) Business Days from the end of each Quarter, a statement of accounts detailing all deposits, transfers, disbursements or payments into and from the Default Escrow Account and the Subsidiary Escrow Accounts, respectively, during the previous Financial Year. During any period, following the delivery of a notice of the occurrence of an Event of Default and until delivery of notice that the Event of Default has been cured and is no longer continuing, the Default Escrow Agent and the Subsidiary Escrow Agent shall provide such statement of accounts to the Seller and the Procurer on a daily basis.
- 2.3.3 The Default Escrow Agent and the Subsidiary Escrow Agents shall, at all times, act and discharge its/their functions and obligations under this Agreement in accordance with the principle of protecting and enforcing the rights and interest of the Seller hereunder and the Security afforded to it herein for the full and timely performance by the Procurer of the Secured Obligations, in the manner contemplated herein.
- 2.3.4 The Subsidiary Escrow Agents shall ensure,
- (i) till the occurrence of any event mentioned in Article 8 (b),(d), (e) and (f), the efficient and immediate transfer of Receivables and/or Incremental Receivables from the Subsidiary Escrow Account in any manner as required by the Procurer and in accordance with the provisions of this Agreement; and
 - (ii) upon the occurrence of any event mentioned in Article 8 (b), (d), (e) and (f), the transfer of Incremental Receivables from the Subsidiary Escrow Account strictly in accordance with Article 5 of this Agreement.
- 2.3.5 The Default Escrow Agent's duties and responsibilities shall be limited to those expressly set forth herein. Without affecting the rights and obligations of the Procurer or the Seller, the Default Escrow Agent shall not be subject to nor obligated to recognise, except as contemplated herein, any other agreement or arrangement between the Procurer and the Seller or the Procurer and Subsidiary Escrow Agents, nor shall any such agreement or arrangement be deemed to be incorporated herein by reference thereto.
- 2.3.6 As soon as practicable but in no event later than fifteen (15) days from the Effective Date, the Procurer and the Seller shall deliver to each other and to the Default Escrow Agent and Subsidiary Escrow Agent, specimen signatures of their respective authorised officers duly attested by their banks for the purposes of this Agreement. The Procurer and the Seller shall have the right to change their respective authorised

officers by delivering specimen signatures of their respective new authorised officers.

- 2.3.7 Notwithstanding anything contained in Section 171 and Section 221 of the Indian Contract Act, 1872 the Default Escrow Agent and Subsidiary Escrow Agents shall not have any lien or be entitled to assert a general claim on or against the monies in the Default Escrow Account or the Subsidiary Escrow Accounts respectively.

Provided that the Procurer's Financing parties confirm to limit their charge on the Receivables to the extent of their outstanding exposure (including commitments for exposure) as on the date of this agreement and cede their existing paripasu charge, if any, on the Incremental Receivables, such ceding to be effective as of the Charge Creation Date.

2.4. Continuation

Any corporation or association into which the Default Escrow Agent or the Subsidiary Escrow Agent/s may be converted or merged, or with which it may be consolidated or to which it may sell or transfer its business and assets as a whole or substantially as a whole or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, shall be and become the successor Default Escrow Agent or the successor Subsidiary Escrow Agent/s hereunder, without the execution or filing of any agreement, document or instrument or any further act, deed or conveyance on the part of the Parties, anything herein to the contrary notwithstanding:

Provided, however, the Seller shall be entitled, if it deems proper, not to accept any such successor Default Escrow Agent and take further steps for requiring replacement thereof in accordance with Article 9.8 of this Agreement.

2.5. Income Attribution

All interest and other amounts in the Default Escrow Account or the Subsidiary Escrow Accounts shall be the income of the Procurer as per the provisions of the relevant tax laws of India.

ARTICLE 3: OBLIGATIONS OF THE PROCURER

3.1. Reaffirmation of Procurer obligations

The Procurer covenants with the Seller that it will pay or discharge each of the Secured Obligations in accordance with the provisions of the PPA and this Agreement

3.2. Creation of Charge

3.2.1 The Procurer shall, at least forty five (45) days prior to the Scheduled Commercial Operation Date or Revised Scheduled Commercial Operation Date of the first Unit of the Power Station ("Charge Creation Date"), as the case may be, create paripasu charge over the Incremental Receivables in favour of the Seller and confirm that effective as of the Charge Creation Date and until satisfaction of the Secured Obligations and the termination of this Agreement, the Procurer's Financing Parties shall not have any charge over the Incremental Receivables or any part of the Security, and that such charge, if created in future, in favour of the Procurer's Financing Parties or any other entity would be secondary and subordinate to the charge created in favour of the Sellers pursuant to the Agreement to Hypothecate Cum Deed of Hypothecation. The Subsidiary Escrow Agents also agree to the provisions of this Article.

3.2.2 The Procurer shall also provide such other documents, certificates and agreements as the Seller may reasonably request in respect of creating a paripasu charge over the Incremental Receivables and/or the Security, in favour of the Seller in accordance with Article 3.2.1 above.

3.3. Creation of further security interest

The Procurer may create any other security interest subordinate and secondary to (i) the charge created in favour of the Seller over Incremental Receivables or (ii) any part thereof, in favour of any person other than the Seller for any reason whatsoever strictly in accordance with the provisions of this Agreement or the Agreement to Hypothecate Cum Deed of Hypothecation.

3.4. Changes in coverage

3.4.1 No change shall be made or permitted by the Procurer in its business operations or collections policies which would result in the flow of Incremental Receivables as provided herein being reduced from what they would have been, had such change not been made or permitted as the case may be.

3.5. Changes in number of Procurer's Banks and Procurer's Bank Accounts

3.5.1 If any changes occur in the Procurer's Bank Accounts, this Agreement shall be deemed to include all of such additional Incremental Receivables received from such modified Procurer's Bank Accounts and such change in the Procurer's Bank Accounts shall be included in Schedule 1 accordingly.

Similarly, if there is any addition to the number of Procurer's Banks as provided in Schedule 1 hereof, such additional Procurer's Banks shall also be deemed to be appointed as the Subsidiary Escrow Agents of the Procurer for the purpose of this Agreement and the Procurer's bank accounts with such banks shall be deemed as Subsidiary Escrow Accounts for the purposes of this Agreement and such change in Procurer's Banks shall be included in Schedule 1 accordingly.

ARTICLE 4: DEPOSITS

4.1 Procurer covenants

4.1.1 The Procurer agrees and confirms that it has irrevocably instructed, or shall irrevocably instruct any additional Procurer's Banks (appointed under Article 3.5) immediately on its appointment as Procurer's Bank, and shall cause and direct each of the Subsidiary Escrow Agents to transfer on the occurrence of an Event of Default mentioned in Article 8 (b), (d), (e) and (f) all Incremental Receivables received by them directly into the Default Escrow Account.

4.1.2 The Procurer agrees and confirms that it shall not take any actions inconsistent with instructions given under clause 4.1.1 or interfere in any way with the transfer of Incremental Receivables by the Subsidiary Escrow Agents directly into the Default Escrow Account as per the terms of this Agreement or deliver or cause to be delivered to the Subsidiary Escrow

Agents any amendment, modification or supplement to such instructions or any additional or new instructions regarding payment of Incremental Receivables by them without the express written approval of the Seller, which amendment, modification or supplement there to or any such additional or new instructions shall be effective only if consented to by a duly authorised representative of the Seller.

4.2 Routing of amounts into the accounts

4.2.1 Any and all credits made into Subsidiary Escrow Accounts, the Default Escrow Account and the Procurer's Bank Accounts under this Agreement shall be irrevocable and all income or gain earned or realised on amounts on such credit in the Subsidiary Escrow Accounts, Default Escrow Account shall be treated for all purposes of this Agreement as part of the Default Escrow Account or Subsidiary Escrow Accounts, as the case may be.

4.2.2 The Procurer irrevocably directs the Default Escrow Agent, and the Default Escrow Agent agrees to deposit immediately upon receipt of all Incremental Receivables from the Subsidiary Escrow Agents directly into the Default Escrow Account, notwithstanding any instructions or directions to the contrary by any Subsidiary Escrow Agents, on and from the date of the occurrence of an Event of Default mentioned in Article 8 (b), (d), (e) and (f), to be dealt with in the manner as specified in Article 5.

ARTICLE 5: OPERATION AND MANAGEMENT OF THE DEFAULT ESCROW ACCOUNT

5.1 General

All amounts deposited in the Default Escrow Account shall be applied by the Default Escrow Agent as provided for in this Article 5. All such amounts to the extent of the Incremental Receivables shall, among others, constitute a part of the Security and shall not constitute payment of any Secured Obligations until applied to the payment thereof as hereinafter provided.

5.2 Disbursements

So long as any Event of Default mentioned in Article 8 (b), (d), (e) and (f) has not occurred or is remedied, the Subsidiary Escrow Agents shall ensure the efficient and immediate transfer of Receivables and/or Incremental Receivables from the Subsidiary Escrow Account in to the Procurer Account or in any manner as required by the Procurer.

In case of occurrence of any event as provided in Article 8 (b), (d), (e) and (f) and in case it is continuing, the Incremental Receivables shall be transferred from the Subsidiary Escrow Account and the Default Escrow Account in the manner specified in Article 5.3.

5.3 Procedures after drawal Letter of Credit

5.3.1

- i. Upon the drawal by the Seller of the Letter of Credit as per Article 10.4 of the PPA and the failure on part of the Procurer to reinstate the Letter of Credit within a period of seven days thereafter and provided the Seller has provided a written notice (with a copy to the Procurer) of the occurrence of such event to the Subsidiary Escrow Agents and Default Escrow Agent, all disbursements, transfers and withdrawals of Incremental Receivables from the Subsidiary Escrow Accounts pursuant to Article 5.2 above shall cease and all transfers and withdrawals of Incremental Receivables from the Subsidiary Escrow Accounts and the Default Escrow Account shall be governed and carried out by the Default Escrow Agent strictly and only in accordance with Article 5.3.2.

Provided that, if, after the Seller has exercised its right to make the drawal of the Letter of Credit in accordance with Article 10.4 of the PPA, the Procurer is able to reinstate the Letter of Credit within a period of seven (7) days thereafter, the Subsidiary Escrow Agent shall not be liable to transfer Incremental Receivables to the Default Escrow Account and the Default Escrow Agent shall not be liable to transfer any funds from the Default Escrow Account into the LC Account or the Sellers Account, as relevant.

- ii. In the event, the Seller is unable to draw on the Letter of Credit pursuant to the failure of the Procurer to establish the Letter of Credit as required under the provisions of Article 10.4 of the PPA, the Seller shall instruct the Subsidiary Escrow Agents and the Default Escrow Agent by giving a notice in writing with a copy to the Procurer to transfer the Incremental Receivables from the Subsidiary

Escrow Accounts and thereon from the Default Escrow Account to the Seller Account to the extent of maximum of the amounts due to the Seller under Article 10.4 of the PPA, along with copies of the documents as required to be submitted by the Seller and the Subsidiary Escrow Agents and the Default Escrow Agent shall so transfer the funds, subject to the provisions of Article 5.3.5 hereof.

- 5.3.2 The Subsidiary Escrow Agents shall immediately after a period of seven (7) days from the drawal of the Letter of Credit by the Seller subject to Clause 5.3.1i above, transfer the Incremental Receivables from the Subsidiary Escrow Account to the Default Escrow Account. The Default Escrow Agent shall immediately, transfer the Incremental Receivables from the Default Escrow Account to an account specified by the bank which has issued the Letter of Credit (“LC Banker”) for the purpose of reinstating the Letter of credit (“LC Account”)and shall continue to transfer Incremental Receivables in to such account for such period until the amount so transferred is adequate to reinstate the Letter of Credit as per the terms of the PPA.
- 5.3.3 During currency of the transfer of Incremental Receivables to the Default Escrow Account and from the Default Escrow Account to the LC Account or the Seller’s Account, the Subsidiary Escrow Agent and the Default Escrow Agent shall not transfer money being part of such Incremental Receivables from the Subsidiary Escrow Account and the Default Escrow Account to the Procurer Account, or its nominee except upon receiving written instructions from the Seller in this regard.
- 5.3.4 The above provisions of Article 5.3.3 shall be subject to the provisions of this Article. Immediately upon transfer of adequate funds to cover the amounts due to the Seller under Article 10.4 of the PPA as per Article 5.3.1(ii) or to meet the requirements of reinstatement of Letter of Credit as per Article 5.3.2, as the case may be, the transfer of amounts from the Subsidiary Escrow Account and the surplus monies in the Default Escrow Account to the Procurer Account shall recommence in accordance with Article 5.2 above.
- 5.3.5 In the event of any Dispute between the Procurer and the Seller arising out of this Agreement, the Procurer shall have recourse to the dispute resolution in accordance with the provisions mentioned in Article 9.9.2 of this Agreement:

Provided that, pending the full and final resolution of such Dispute, the Subsidiary Escrow Agent and the Default Escrow Agent shall retain Incremental Receivables in the Subsidiary Escrow Account and the Default Escrow Account respectively and shall not allow transfer of Incremental Receivables to the extent of the unpaid amount under dispute, from the Subsidiary Escrow Account and the Default Escrow Account to the LC Account or the Procurer Account or the Seller Account.

Upon the full and final conclusion of a dispute, either Party may bring the decision of the adjudicator to the notice of the Subsidiary Escrow Agents and the Default Escrow Agent who shall be bound by such decision and shall carry out such actions as are specified in the decision.

ARTICLE 6: REPRESENTATION AND WARRANTIES

6.1 Representations and Warranties of the Procurer

The Procurer hereby represents and warrants to the Seller and the Default Escrow Agent as of the date of this Agreement and at all times that:

- a. the Procurer is a duly constituted entity and is validly existing under the laws of India and has all requisite legal power and authority to execute this Agreement and to carry out the terms, conditions and provisions contained in this Agreement;
- b. this Agreement constitutes valid legal and binding obligations of the Procurer, enforceable in accordance with the terms of this Agreement;
- c. to the best of the knowledge of the Procurer, there is no pending or threatened action, suit or proceeding before any court, tribunal or judicial or quasi-judicial body or Government that could reasonably be expected to materially and adversely affect the financial condition or operations of the Procurer or the ability of the Procurer to perform its obligations under this Agreement or which purports to affect the legality, validity or enforceability of this Agreement;
- d. the execution, delivery and performance of this Agreement by the Procurer have been duly authorised by all requisite actions and will not constitute a violation of:
 - (i) any statute, judgement, order, decree or regulation of any court, Indian Government Instrumentality or arbitral tribunal applicable or relating to the Procurer, its assets or its business; or
 - (ii) the Procurer's constitution or other documents or any indenture, contract or agreement to which it is Party or by which it or its property may be bound;
- e. no hypothecation, lien, charge, security interest or other encumbrance shall exist over or shall be created over the Incremental Receivables, after the Charge Creation Date or otherwise than as permitted under this Agreement or the Agreement to Hypothecate Cum Deed of Hypothecation;
- f. after the Charge Creation Date, the Procurer's Financing Parties do not and shall not have any paripasu charge, security interest or other encumbrance over the Incremental Receivables, except a second/subordinate charge which may be created in their favour in accordance with Articles 3.2.1 and 3.3 above;
- g. the schedules, annexes and other attachments attached hereto do not and will not contain any material misstatement of fact which is untrue or omit to state any fact, the omission of which makes or will make any of the statements therein, in the light of the circumstances under which they were or will be made, misleading in any respect;
- h. all filings and other actions necessary to create, perfect and protect a paripasu charge with respect to the Security have been duly made or taken or shall be duly made and taken before Commercial Operations Date of the first Unit of the Power Station and as of the said date, all such filings and actions shall be in full force

and effect; and

- i. the information relating to the Procurer's Financing Parties and Procurer's Banks given in the Schedules 1 and 2 of this Agreement, shall be complete and accurate in all material respects and all such accounts are held and made in good faith.

6.2 Representations and Warranties of the Default Escrow Agent

The Default Escrow Agent shall represent and warrant to the Seller and the Procurer as of the Effective Date and at all times that:

- a) the Default Escrow Agent is a scheduled commercial bank and duly constituted under the [insert statute] having its head office at [insert address] and its branch among others, at [insert address] and validly existing under the laws of India and has all requisite legal power, authority and resources to enter into this Agreement and to perform its duties and obligations hereunder;
- b) this Agreement constitutes the valid legal and binding obligations of the Default Escrow Agent enforceable in accordance with the terms of this Agreement;
- c) there are no actions, suits or proceedings pending or threatened, against or affecting the Default Escrow Agent before any court or administrative body or arbitral tribunal that could reasonably be expected to affect adversely and materially the ability of the Default Escrow Agent to perform its duties and obligations under this Agreement;
- d) the execution delivery and performance of this Agreement has been duly authorised by all requisite action, and will not constitute a violation of:
 1. any statute, judgement, order, decree or regulation of any court, Indian Government Instrumentality or arbitral tribunal applicable or relating to the Default Escrow Agent, its assets or its business; or
 2. the Default Escrow Agent's constitution or other documents or any indenture, contract or agreement to which it is a party or by which it or its property may be bound; and
- e) the Default Escrow Agent is not aware of any other charge or security interest or encumbrance granted over the Incremental Receivables in favour of any other person other than the Seller.

6.3 Representations and Warranties of the Seller

The Seller hereby represents and warrants to the Default Escrow Agent and the Procurer that:

- a) it has been duly constituted under the Indian Companies Act, 1956 as amended and is validly existing under the laws of India and has all requisite legal power, authority and resources to enter into this Agreement and to perform its duties and obligations hereunder;

- b) this Agreement constitutes the valid, legal and binding obligations of the Seller enforceable in accordance with the terms of this Agreement; and
- c) the execution, delivery and performance of this Agreement by the Seller has been duly authorised by all requisite action, and will not constitute a violation of:
 - i. any statute, judgement, order, decree or regulation of any court, Indian Government Instrumentality or arbitration tribunal applicable or relating to the Seller, its assets or its business; or
 - ii. the Seller's constitution or other documents or any indenture, contract or agreement to which it is Party or by which it is Party or by which it or its property may be bound.

6.4 Representations and Warranties of the Subsidiary Escrow Agents

Each of the Subsidiary Escrow Agents shall represent and warrant to the Seller and the Procurer as of the Effective Date and at all times that:

- a) the Subsidiary Escrow Agent is a commercial bank and duly constituted under the [insert statute] having its head office at [insert address] and its branch among others, at [insert address] and validly existing under the laws of India and has all requisite legal power, authority and resources to enter into this Agreement and to perform its duties and obligations hereunder;
- b) this Agreement constitutes the valid legal and binding obligations of the Subsidiary Escrow Agent enforceable in accordance with the terms of this Agreement;
- c) there are no actions, suits or proceedings pending or threatened, against or affecting the Subsidiary Escrow Agent before any court or administrative body or arbitral tribunal that could reasonably be expected to affect adversely and materially the ability of the Subsidiary Escrow Agent to perform its duties and obligations under this Agreement;
- d) the execution delivery and performance of this Agreement has been duly authorised by all requisite action, and will not constitute a violation of:
 - i. any statute, judgement, order, decree or regulation of any court, Indian Government Instrumentality or arbitral tribunal applicable or relating to the Subsidiary Escrow Agent, its assets or its business; or
 - ii. the Subsidiary Escrow Agent's constitution or other documents or any indenture, contract or agreement to which it is a party or by which it or its property may be bound; and
- e) the Subsidiary Escrow Agent is not aware of any other charge or security interest or encumbrance granted over the Incremental Receivables in favour of any other person other than the Seller

ARTICLE 7: COVENANTS

7.1 Procurer Covenants

The Procurer covenants that:

- a. It shall create and maintain valid, perfected and enforceable paripasu charge over all of the Security pursuant to the Agreement to Hypothecate Cum Deed of Hypothecation;
- b. It shall procure all amendments, approvals, consents or waivers as may be required from the Procurer Financing Parties and any other financing parties from whom such amendments, approvals, consents or waivers are required, for the creation, maintenance and enforcement of the security interest contemplated hereby or by the Agreement to Hypothecate Cum Deed of Hypothecation in favour of the Seller;

It shall not after the Charge Creation Date grant or create a first priority security interest, hypothecation, charge, lien, security interest or other encumbrance over the Incremental Receivables, throughout the term of this Agreement other than the Security created hereunder and created under the Agreement to Hypothecate Cum Deed of Hypothecation in favour of the Seller except in compliance with the provisions of this Agreement or the Agreement to Hypothecate Cum Deed of Hypothecation;

- c. It shall obtain in a timely manner and maintain in full force and effect (or where appropriate, renew) all authorisations that are necessary and that are required to be in the name of the Procurer, in connection with:
 - (i) the execution, delivery, performance and observance by the Procurer of this Agreement; and
 - (ii) the validity, binding effect and enforceability of this Agreement
- d. it shall effect all registrations, recordings, filings, and notarisations, which are or may become necessary to enable the performance by the Procurer of its obligations under this Agreement and the Agreement to Hypothecate Cum Deed of Hypothecation;
- e. it shall execute such further documents, instruments and register or record the same and take any other action necessary to give effect to this Agreement; and
- f. it shall inform the Seller of any receipt of notice, claim, legal proceedings instituted against it which might affect the payment obligations as set out in the Agreement.

ARTICLE 8: EVENTS OF DEFAULT

8.1 Events of Default

For the purposes of this Agreement, the term “Event of Default” shall mean the occurrence or existence of any one or more of the following:

- (a) the Procurer being in breach of its material obligations under this Agreement or the Agreement to Hypothecate Cum Deed of Hypothecation;
- (b) the Procurer committing a Procurer Event of Default as mentioned in Article 13.2 of the PPA;
- (c) any representation or warranty made by the Procurer in this Agreement shall be or shall have been incorrect in any material respect.
- (d) Upon the drawal by the Seller of the Letter of Credit as per Article 10.4 of the PPA and the failure on part of the Procurer to reinstate the Letter of Credit within a period of seven (7) days thereafter and provided the Seller has provided a written notice (with a copy to the Procurer) of the occurrence of such event to the Subsidiary Escrow Agents and Default Escrow Agent.
- (e) The Seller is unable to draw on the Letter of Credit pursuant to the failure of the Procurer to establish the Letter of Credit as required under the provisions of Article 10.4 of the PPA and provided the Seller has provided a written notice (with a copy to the Procurer) of the occurrence of such event to the Subsidiary Escrow Agents and Default Escrow Agent;
- (f) Default by the Procurer for the repayment and/or discharge of obligations of the Procurer to any person under a legally binding agreement providing inter alia, security by way of a charge on the Incremental Receivables of the Procurer, provided such charge to such person enjoys a lower priority and ranking security interest to the Seller.

ARTICLE 9: MISCELLANEOUS

9.1 Expenses

Except in cases specified in Articles 9.8.2 and 9.8.6 of this Agreement, the Seller and Procurer shall bear, in equal proportion, all the expenses of the Default Escrow Agent and each Subsidiary Escrow Agent regarding opening and maintaining the Default Escrow Account and the Subsidiary Escrow Account respectively and the expenses (including reasonable expenses for legal services of every kind) relating to the execution and enforcement of this Agreement or the Agreement to Hypothecate Cum Deed of Hypothecation including, without limitation, any stamp tax or duty, required to be paid under this Agreement and with respect to any variation, waiver or modification or any consent required in connection with this Agreement or the Hypothecation Agreement Cum Deed of Hypothecation. The Default Escrow Agent shall not be entitled to deduct any amount due and payable by the Seller to the Default Escrow Agent from monies deposited in the Default Escrow Account and the Procurer Account established pursuant to this Agreement. The Default Escrow Agent shall however be entitled to deduct any amount due and payable by the Procurer to the Default Escrow Agent from monies deposited in the Procurer Account established pursuant to this Agreement.

9.2 Variation, Waivers and Modifications

No variation, waiver or modification of the terms of this Agreement shall be valid unless reduced in an agreement in writing signed by the Parties hereto.

9.3 Notices

9.3.1 Any notice, direction, instruction, certificate and any other communication required or permitted to be given hereunder shall be in writing and shall be:

- (a) personally delivered; or
- (b) transmitted by postage prepaid registered mail; or
- (c) delivered through courier.

as elected by the Party giving such notice, direction, instruction, certificate or other communication to the addressee as set-forth below.

9.3.2 Except as otherwise specified herein, the date of any notice, direction, instruction, certificate or other communication hereunder shall be deemed to be:

- (a) the date of receipt if delivered personally or through courier;
- (b) the date seven (7) days after posting if sent by mail;

9.3.3 Except as otherwise expressly provided herein, all notices, directions, instructions, certificates or other communications hereunder and all documents or instruments delivered in connection with this transaction shall be in the English language.

9.3.4 Notices shall be sent:

In case of the Seller	[insert details]
In case of the Procurer	[insert details]
In case of the Default Escrow Agent	[insert details]
In case of the Procurer Banks	[insert details]

9.4 No Third Party Beneficiaries

This Agreement is solely for the benefit of the Procurer, the Default Escrow Agent, Procurer's Banks and the Seller and their respective permitted assigns and successors (including the Lenders in the case of the Seller) and no other person shall have any rights under this Agreement.

9.5 No Waiver

The failure of a Party to insist in one or more instances upon the strict performance of any of the provisions of this Agreement or to take advantage of any of its rights under this Agreement shall not be construed as a waiver of any such provisions or relinquishment of any rights hereunder but the same shall continue in full force and effect.

9.6 Severability

The invalidity or unenforceability, for any reason, of any provision of this Agreement shall not prejudice or affect the validity or enforceability of the other provisions of this Agreement. Provided however, if the said provision is fundamental provision of this Agreement or forms part of the consideration or object of this Agreement, the provision of this Article shall not apply.

9.7 Assignments

This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns. No Party shall assign any of its rights or obligations under this Agreement, to any third party without the prior written consent of the other Parties to this Agreement. provided, however, that such consent shall not be required for any assignment, (and transfer) by the Seller of any or all of its rights hereunder to or in favour of the Selectee appointed in accordance with the terms of the PPA.

9.8 Term and Termination

9.8.1 Term and Termination or Expiry of the PPA

This Agreement shall be effective from the Effective Date. Subject to the provisions of Article 9.8.2 of this Agreement, the Agreement shall be coterminous with the PPA and shall terminate on the Expiry Date or if the PPA is terminated earlier in accordance with the terms therein, if at such time, all of the Secured Obligations towards the Seller, under the PPA, have been paid in full. The Procurer shall notify

the Default Escrow Agent of such Expiry Date occurring or termination together with the Seller's confirmation that all of the Secured Obligations towards the Seller, under the PPA, have been paid in full and then the Procurer shall instruct the Default Escrow Agent to transfer all funds in the Default Escrow Account to the Procurer Account, and Default Escrow Agent shall cease to act as the Default Escrow Agent and cease to implement any other fund transfer provided for in this Agreement.

9.8.2 End of the Default Escrow Account

Notwithstanding anything contained to the contrary in this Agreement, this Agreement shall automatically and without any need for further action terminate, if all of the following events (a), (b) and (c) have occurred:

- (a) A period of not less than two (2) years, from COD of last Unit, has elapsed; and
- (b) The Procurer has achieved, for its ability to honour its Tariff Payment obligations to the Seller under PPA, a credit rating of 'A' or better from a SEBI registered Indian credit rating agency (acceptable to Lenders) consistently for a period of at least three (3) years; and
- (c) Immediately prior to the aforementioned three (3) year period, for a period of at least two (2) years, there has been no Procurer Event of Default under Article 13.2 of the PPA by such Procurer.

Provided that, the Procurer shall intimate the Seller in writing of the occurrence of the above events and its intention to terminate this Agreement. If the Seller desires to continue with this Agreement, the Seller shall intimate the same to the Procurer in writing within thirty (30) days of receipt of intimation from the Procurer and in such case the Seller shall be liable to bear all the costs and expenses of continuation of this Agreement, including costs of the Escrow Agent and each Subsidiary Escrow Agent, with effect from such date. In case the Seller fails to respond or agrees to terminate this Agreement, this Agreement shall stand terminated.

9.8.3 Resignation

The Default Escrow Agent may, after giving at least one hundred eighty (180) days notice in writing to both Parties resign from acting as Default Escrow Agent for the purposes of this Agreement.

Provided however that, no such resignation of the Default Escrow Agent shall be effective until the Parties jointly find a successor bank and such successor bank assumes its responsibilities after execution of an Default Escrow agreement (substantially in the form and content of this Agreement).within the period prescribed by this Agreement.

Provided further that, if a successor bank acceptable to the Seller is found within a shorter period, the Parties (with the consent of the Lenders) may waive the notice period of one hundred eighty (180) days.

9.8.4 Termination of Appointment

If, in the reasonable judgement of the Seller the Default Escrow Agent commits any material breach of the terms of this Agreement, the Seller shall have the right to require the Procurer to terminate the appointment of the Default Escrow Agent after giving to the Procurer and the Default Escrow Agent a written notice of ninety (90) days or of such shorter period (not shorter than thirty (30) days) as the Seller may decide. Such termination of the appointment of the Default Escrow Agent shall not be effective until a successor bank assumes responsibility.

9.8.5 Termination For a Distress Event

Upon the occurrence of a Distress Event, the Seller or Procurer shall serve a written notice of termination on the Default Escrow Agent with copies to either party and appointment of the Default Escrow Agent shall immediately terminate on receipt of such notice by the Default Escrow Agent

9.8.6 Procedure

(a) In the event of notice of resignation by the Default Escrow Agent or a notice of termination of the Default Escrow Agent by the Seller in accordance with Article 9.8.4 or 9.8.5 above, the Procurer and the Seller shall forthwith take steps to appoint a successor bank as Default Escrow Agent and shall, not later than thirty (30) days before the effectiveness of such resignation or termination, execute and cause such successor bank to execute an agreement with the Procurer and the Seller, on terms substantially similar to those contained in this Agreement. All expenses arising due to termination or appointment of the successor Default Escrow Agent by the Seller shall be borne by the Seller.

(b) The Default Escrow Agent shall:

- i. cease therewith accepting any payments or deposits to the Default Escrow Account;
- ii. transfer all amounts standing to the credit for the Default Escrow Account to the Default Escrow Account opened with the replacement Default Escrow Agent;
- iii. when all such amounts have been transferred, close the Default Escrow Account; and
- iv. within thirty (30) days of such closing, provide to the Procurer and the Seller a written report which shall fully reconcile all deposits to, and withdrawals from the Default Escrow Account.

(c) In the event of the resignation or termination of the Default Escrow Agent and the appointment of a successor to the Default Escrow Agent pursuant to this Article 9.8, new default Escrow Account shall be opened at the main branch of the successor Default Escrow Agent and the relevant provisions of this Agreement shall be applicable to each such account.

9.9 Governing Law and Jurisdiction and Dispute Resolution

- 9.9.1 This Agreement shall be governed by and constructed in accordance with the laws of India.
- 9.9.2 If any dispute arises between the Parties hereto during the subsistence of this Agreement, in connection with the validity, interpretation, implementation or alleged breach of any provision of this Agreement or regarding any question as to whether the termination of this Agreement by one Party hereto has been legitimate ('Dispute'), such Dispute shall be resolved by arbitration under the Indian Arbitration and Conciliation Act, 1996 and the Rules of the Indian Council of Arbitration, in accordance with the process specified in this Article. In the event of such Dispute remaining unresolved, any party to such Dispute may refer the matter to registrar under the Rules of the Indian Council of Arbitration.
- (i) the Arbitration tribunal shall consist of three arbitrators to be appointed in accordance with Rule 23 of the Indian Council of Arbitration Rules;
 - (ii) The place of arbitration shall be Lucknow, India. The language of the arbitration shall be English;
 - (iii) The arbitration tribunal's award shall be substantiated in writing. The arbitration tribunal shall also decide on the costs of the arbitration proceedings and the allocation thereof;
 - (iv) The award shall be enforceable in any court having jurisdiction, subject to the applicable Laws; and
 - (v) The provisions of this Article shall survive the termination of the PPA for any reason whatsoever.

9.10 Entire Agreement

The Agreement, including the Schedules, contains all of the understandings and agreements of whatsoever kind and nature existing between all the Parties hereto with respect to the subject matter of this Agreement and the rights, interests, understandings, agreements and obligations of the Parties relating thereto.

9.11 Confidentiality

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

- (a) to their professional advisors;
- (b) to their officers, employees, agents or representatives, who need to have access to such information for the proper performance of their activities; without the prior written consent of the other Parties.

Provided that, the Procurer shall always have the right to make public this Agreement in accordance with the Bidding Guidelines.

9.12 Counterparts

This Agreement may be executed by the Parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement effective as of the date first above written.

SIGNED AND DELIVERED

BY THE WITHIN NAMED "PROCURER"

BY THE HAND OF Mr. _____

(AUTHORISED SIGNATORY) PURSUANT TO THE RESOLUTION PASSED BY THE BOARD ON THE DAY OF _____ 2014

IN THE PRESENCE OF:

WITNESS:

NAME AND ADDRESS:

SIGNED AND DELIVERED

BY THE WITHIN NAMED "SELLER"

BY THE HAND OF Mr. _____

(AUTHORISED SIGNATORY) PURSUANT TO THE RESOLUTION PASSED BY THE BOARD ON THE DAY OF _____ 2014

IN THE PRESENCE OF:

WITNESS:

NAME AND ADDRESS:

SIGNED AND DELIVERED

BY THE WITHINNAMED "DEFAULT ESCROW AGENT"

BY THE HAND OF Mr. _____ (AUTHORISED SIGNATORY)

ON THE DAY OF _____ 2014

IN THE PRESENCE OF:

WITNESS:

NAME AND ADDRESS:

SIGNED AND DELIVERED

BY THE WITHINNAMED "PROCURER BANKS" 1.

2.

3.

4.

BY THE HAND OF THEIR RESPECTIVE AUTHORISED SIGNATORIES

ON THE DAY OF _____ 2014

IN THE PRESENCE OF:

WITNESS:

NAME AND ADDRESS

SCHEDULE 1: PROCURER'S BANKS

SCHEDULE 2: PROCURER'S FINANCING PARTIES