Draft for Comments

Model Wind Energy Power Purchase Agreement (PPA)

This Power Purchase Agreement is made at ……., this…… day of…… between …..Distribution Company (DISCOM) a company formed and incorporated in India under the Companies Act, 1956, with its registered office located at…… State, hereinafter referred to as the ''……Electricity Distribution Company as the party of the first part, and M/s……., a company formed and incorporated under the Companies Act, 1956 or the Companies Act 2013, proprietary concern/partnership firm/private limited /public limited company/co-operative society etc., and having its Registered Office at ……., hereinafter referred to as the "Company" (which expression shall, unless repugnant to the context or meaning thereof, include its successors, and permitted assigns) as party of the second part.

… DISCOM and the Company will be jointly known as the parties and will be individually known as party

WHEREAS,

i) The Company plans to develop, design, engineer, procure finance, construct, own, operate and maintain a Wind Energy based Electric Power Generating Station, hereinafter defined as the Project, with a gross capacity of .....MW and net capacity of .....MW at..... Village in ..... Taluk .....District, ...State and desires to sell Electricity generated in the said project to the .....DISCOM and

ii) .....DISCOM, which is at present engaged in the purchase, supply and distribution of electricity has agreed to purchase Electricity (as hereinafter defined) from the Company to be generated in the said project on the conditions set forth herein.

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NOW THEREFORE IN VIEW OF THE FOREGOING PREMISES AND IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREINAFTER SET FORTH, THE .....DISCOM AND THE COMPANY, EACH TOGETHER WITH THEIR RESPECTIVE SUCCESSORS AND PERMITTED ASSIGNS, A PARTY AND COLLECTIVELY THE PARTIES, HEREBY AGREE AS FOLLOWS.

ARTICLE 1

DEFINITIONS

1.1 For all purposes of this Agreement, unless the context otherwise e requires the following words and expressions shall have the respective meanings set forth below:

(i) **"Agreement"** shall mean this Power Purchase Agreement executed hereof, including the schedules hereto, amendments, modifications and supplements made in writing by the Parties from time to time.

(ii) **"Approvals"** means the permits, clearances, licenses and consents to be obtained by the Company, as are listed in Schedule 4 hereto and any other statutory approvals.

(iii) **"Billing Period"** means the calendar month ending with the Metering Date. The first Billing Period shall commence with the Commercial Operation Date and end with the Metering Date corresponding to the month in which the Commercial Operation Date occurs.

(iv) **"Billing Date"** shall be the first Business Day after the Metering Date of each Billing Period.

(v) **"Commercial Operation Date"** Means with respect to each Generating unit, the date on which such Generating unit is declared by the Wind Power Producer to be operational, provided that the Wind Power Producer shall not declare a Generating unit to be operational until such Generating unit has completed its performance acceptance test as per standards prescribed.

(vi) **"Commission"** means the ..... Electricity Regulatory Commission.

(vii) **"Corporation's Electrical system"** means, which includes the State Transmission Utilities, power transmission lines, Transformers, Circuit Breakers, CTs, PTs, relays, Towers, Structures and associated equipments involved in the transmission of Electrical energy.

(viii) **"Delivered Energy"** means the kilowatt hours of Electricity actually fed and measured by the energy meters at the Interconnection Point or Delivery Point in a Billing Period.

(ix) **"Due Date of Payment"** in respect of a Monthly Invoice means the date, which is Fifteen days from the date of receipt of such invoices by the designated official of the Distribution utility.

(x) **"....DISCOM"** or **"Distribution Utility"** means .....Electricity Supply Company or its successor entity.

(xi) **"Electricity Laws"** shall mean Electricity Act, 2003 and the relevant rules, notifications, and amendments issued there under and all other Laws in effect from time to time and applicable to the development, financing, construction, ownership, operation or maintenance or regulation of electricity generating companies in India.

(xii) **"ESCROW Agreement"** means the agreement to between DISCOM, the company and the ESCROW trustee for payment of energy procured by the DISCOM under this agreement.

(xiii) **"DISCOM's/ Distribution Licensee electrical System"** means, which includes the ..DISCOM's power distribution lines, Transformers, Circuit Breakers, CTs, PTs, relays, Towers, Structures and associated equipments involved in the distribution of Electrical energy.

(xiv) **"Financial Closure"** means the signing of the Financing Documents for financing of the Project and fulfillment of all the conditions precedent to the initial availability of funds thereunder and the receipt of commitments for such equity as required by the Company in order to satisfy the requirements of the lenders, provided however that the Company has immediate access to funds (subject to giving the required drawdown notices) regarded as adequate by the Company

(xv) **"Fiscal Year"** or **Financial Year"** shall mean, with respect to the initial Fiscal Year, the period beginning on the Commercial Operation Date and ending at 12.00 midnight on the following March 31. Each successive Fiscal Year shall begin on April 1 and end on the following March 31, except that the final Fiscal Year shall end on the date of expiry of the term or on termination of this Agreement, whichever is earlier.

(xvi) **"Force Majeure Event"** shall have the meaning set forth in Article 9.

(xvii) **"Grid System"** means Distribution Licensee / State Transmission Utility power transmission/ distribution system through which Delivered Energy is evacuated and distributed.

(xviii) **“Installed Capacity”** means the total rated capacity in MW of all the Wind Energy Generators installed by the Wind Power Producer.

(xix) **“Interconnection Point”** or **"Delivery Point"** shall mean the line isolator on outgoing feeder on HV side of the pooling sub-station; or the LV side of incoming feeder connecting to the existing transmission or distribution substation

(xx) **“Interconnection Facilities”** in respect of the Company shall mean all the facilities installed, to enable.DISCOM to receive the Delivered Energy from the Project, from interconnection point till the nearest STU/ DISCOM substation including transformers, and associated equipment, relay and switching equipment, protective devices and safety equipment and transmission lines from the Project to STU’s/.....DISCOM’s nearest sub-station.

(xxi) **“Interfacing facilities”** shall mean the facilities installed to connect individual wind generators up to interconnection point.

(xxii) **"Letter of Credit"** shall mean the letter of credit established pursuant to Article7.

(xxiii) **"Metering Date"** for a Billing Period, means the midnight of the last Day of the calendar month, at the interconnection point.

(xxiv) **“Metering Point”** means points where Common meter is provided at the Interconnection Point for purposes of recording of Delivered Energy of the Project;

(xxv) **“Project”** means a wind mill power station proposed to be established by the Company at …….Village .....District, in .....State comprising of (…….) Units with an individual installed capacity of …….. kilowatts and a total installed capacity of ……..MW and shall include land, buildings, plant, machinery, ancillary equipment, material, switch-gear, transformers, protection equipment and the like necessary to deliver the Electricity generated by the Project to the DISCOM at the Delivery Point.

(xxvi) **"Project Site"** means any and all parcels of real property, rights-of-way, easements and access roads located at…….. Village, ……District, ...State, upon which the Project and its related infrastructure will be located, as described in Schedule 1 hereto.

(xxvii) **"Prudent Utility Practices"** means those practices, methods, techniques and standards as changed from time to time that are generally accepted for use in electric utility industries taking into account conditions in India, and commonly used in prudent electric utility engineering and operations to design, engineer, construct, test, operate and maintain equipment lawfully, safely, efficiently and economically as applicable to power stations of

the size, service and type of the Project, and that generally confirmed to the manufacturers' operation and maintenance guidelines.

(xxviii) **"Pooling Station"** shall mean the ……KV electric switching station constructed and maintained by the Company near the …. KV/…. KV sub-station of the Corporation/DISCOM located at……., for the sole purpose of evacuating the Electricity generated by the Project to the Grid System and for facilitating interconnection between the transmission lines emanating from the Project and the Grid System.

(xxix) **"State Load Despatch Center"** means the State Load Despatch Centre established as per the Act.

(xxx) **"State Transmission Utility"** means ..... Power Transmission Corporation Limited or its successor entity.

(xxxi) **"System constraint"** means a condition or situation including the condition of 'Emergency' under which the Corporation's/....DISCOM's electrical system is not able to evacuate and transmit the generated energy fully or partly from the project due to unforeseen break down of the system.

(xxxii) **"System Emergency"** means a condition or situation affecting either Corporation's/.....DISCOM's electrical system or the Grid System, including without limitation, voltage/frequency variations beyond the Technical Limits, which threatens the safe and reliable operation of such system or which is likely to result in disruption of safe, adequate and continuous electric supply by Corporation/ .....DISCOM's or the Grid System or could endanger life or property.

(xxxiii) **"Tariff"** shall have the meaning set forth in Article 6.

(xxxiv) **"Technical Limits"** means the limits and constraints described in Schedule 2, relating to the operations, maintenance and despatch of the Project.

(xxxv) **"Term"** means the term of the Agreement as defined in Clause 10.1.

(xxxvi) **"Unit"** When used in relation to the generating equipment, means one set of turbine generator and auxiliary equipment, and facilities forming part of the project and when used in relation to electrical energy, means kilo watt hour (kWh).

1.2 **Interpretation:**

(i) Unless otherwise stated, all references made in this Agreement to "Articles" and "Schedules" shall refer, respectively, to Articles of, and Schedules to, this Agreement. The Schedules to this Agreement form part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement.

(ii) All other words and expressions used herein and not defined herein but defined in Indian Electricity Rules 2005, ...Electricity Reform Act,..... and the Electricity Act, 2003 shall have the meanings respectively assigned to them in the said Acts.

(iii) In this Agreement, unless the context otherwise requires (a) the singular shall include plural and vice versa; (b) words denoting persons shall include partnerships, firms, companies and corporations, (c) the words "include" and "including" are to be construed without limitation and (d) a reference to any Party includes that Party's successors and permitted assigns.

ARTICLE 2

LICENSES AND PERMITS

2.1 The Company/Developer shall also arrange to obtain necessary statutory clearances from Electrical Inspectorate, Government of ..... and other Departments under relevant rules, if any, before affecting the tie-up of the Wind Electric generators with the Distribution Licensee / State Transmission Utility grid. The Company/ Developer shall ensure that the plant be open and accessible for inspection by authorized Officers/ staff of the Electrical Inspectorate and Distribution Licensee / State Transmission Utility NSCO before commissioning and periodically thereafter as and when required by these authorities without any prior permission/intimation.

ARTICLE 3

INTERFACING AND EVACUATION FACILITIES

3.1 Generator shall be responsible planning, constructing and paying for the procurement, construction and installations of its interfacing facilities till the interconnection point.

3.2 Wind energy generated shall be evacuated to the State grid through EHV substation. If required Distribution Licensee / State Transmission Utility may setup a new substation, if not available or upgrade the existing EHV sub-station.

3.3 Generator shall bear the cost of generation facility switchyard and up to interconnection point. Distribution Licensee / State Transmission Utility shall be responsible for development of evacuation infrastructure beyond interconnection point and this should be recovered from the consumers.

3.4 In case the interconnection facilities are developed by the company, the same shall be handed over to Distribution Licensee / State Transmission Utility after commissioning. Operation & maintenance shall be carried by Distribution Licensee / State Transmission Utility.

3.5 Sanctioned estimate by Distribution Licensee / State Transmission Utility or actual expenses incurred by company, for development of interconnection facility, whichever is lower shall be considered as evacuation expenses.

3.6 After handing over the interconnection facility to Distribution Licensee / State Transmission Utility, the evacuation expenses beyond interconnection point shall be refunded to Wind generator.

3.7 The Wind Energy Generator and the Distribution Licensee / State Transmission Utility shall comply with the provisions contained in Central Electricity Authority (CEA) (Technical Standards for connectivity to the Grid) Regulations, 2007 which includes the following namely;

(a) Connection Agreement
(b) Site responsibility schedule
(c) Access at Connection site
(d) Site Common Drawings
(e) Safety
(f) Protection System and Co-ordination
(g) Inspection, Test, Calibration and Maintenance prior to Connection.

3.8 The Wind Energy Generator agrees to comply with the safety measures contained in Indian Electricity Rules ..... and Central Electricity Authority (Safety and Electric Supply) Regulations;

3.9 Both the parties shall comply with the provisions contained in the Indian Electricity Grid Code, ... State Electricity Grid Code, the Electricity Act, 2003, other Codes and Regulations issued by the Commission / CEA and amendments issued thereon from time to time.

ARTICLE 4

OPERATIONS AND MAINTAINANCE

4.1 The Wind Energy Generator agrees that the starting current of the Generators shall not exceed the full load current of the machine and to provide the necessary current limiting devices like thyristor during starting.

4.2 The Wind Energy Generators agrees to minimize drawl of reactive power from the Distribution Licensee's grid at an interchange point when the voltage at that point is below 95% of rated voltage and shall not inject reactive power supply when the voltage is above 105% rated voltage subject to payment of required charges as per the order in force.

4.3 The Wind Energy Generator agrees to provide suitable automatic safety devices so that the Generators shall isolate automatically when the grid supply fails.

4.4 The Wind Energy Generator agrees to maintain the Generators and the equipments including the transformer, switch gear and protection equipments and other allied

equipments at the generator end at his cost to the satisfaction of the authorized officer of the Distribution Licensee / State Transmission Utility.

4.5 The changing of the rupturing capacity of the switch gear and settings of the relays, if any, shall be subject to the approval of the authorized officer of the Distribution Licensee / State Transmission Utility.

4.6 The interconnecting lines shall be maintained by the Distribution Licensee / State Transmission Utility at their cost.

4.7 The generators shall be maintained effectively and operated by competent and qualified personnel.

4.8 Generator, the Wind Energy Generator shall provide the following scheme of protection namely;

(i) Separate overload relays on each phase and earth fault relays shall be installed by the Wind Energy Generator. Under no circumstances, these relays shall be bypassed

(ii) With suitable current transformer and relay connections, the load sharing by the Wind Energy Generator and Distribution Licensee /State Transmission Utility shall be limited to their rated capacity.

(iii) Adequate indication and control metering for proper paralleling of the generators on the HV bus shall be made available.

(iv) Protection co-ordination shall be done by the Distribution Licensee /State Transmission Utility in consultation with Regional Power Committee and relays and the protection system shall be maintained as per site responsibility schedule.

(v) Grid availability shall be subject to the restriction and control as per the orders of the SLDC and as per .....State Electricity Grid Code

ARTICLE 5

UNDERTAKINGS

5.1 **The Wind Power Producer shall be responsible:**

(i) For proper maintenance of the project in accordance with established prudent utility practices.

(ii) For operation, maintenance, overhaul of the plant, equipment, works, switch yard and transmission lines and equipment up to the Interconnection Point of the project in close coordination with the DISCOM.

(iii) The Wind Power Producer shall furnish the generation and maintenance schedules every year.

(iv) For making all payments on account of any taxes, cess, duties or levies imposed by any Government or competent statutory authority on the land, equipment, material or works of the project or on the energy generated or consumed by the project or the Wind Power Producer or on the income or assets of the Wind Power Producer.

(v) For obtaining necessary approvals, permits or licences for operation of the project and sale of energy to DISCOM there from under the provision of the relevant laws.

(vi) The Wind Power Producer have to comply with the provisions of the .....Grid Code.

(vii) For seeking approval of Distribution Licensee /State Transmission Utility in respect of Interconnection Facilities, Pooling Substation and synchronization of the Project with grid.

(viii) The Wind Power Producer shall not dismantle and take away project machinery and interconnection facilities during the PPA term.

(ix) After 20th year of the operation from Commercial Operation Date, if plant continues to operate, the Distribution Licensee shall have the first right of refusal on power purchase from the Wind power plant. The tariff beyond 20th year shall be as mutually agreed by both the parties, subject to approval of APERC.

(x) The Company shall seek approval of Corporation/…DISCOM in respect of Interconnection Facilities and the Receiving Station.

(xi) The Company shall undertake at its own cost construction/up-gradation of (a) the Interconnection Facilities, (b) the transmission lines and (c) Receiving Station as per the specifications and requirements of Corporation/..DISCOM, as notified to the Company.

(xii) The Company shall operate and maintain the Project in accordance with Prudent Utility Practices.

5.2 **Distribution utility shall be responsible for:**

(i) To allow the Company to the extent possible to operate the Project as a base load generating station subject to system constraints/System emergency.

(ii) Subject to system constraints to off-take and purchase all the Electricity generated by the Company at the Delivery Point.

(iii) To make tariff payments to the Company as set out in Article 6

(iv) To accord approval within a reasonable period for the Interconnection Facilities to be constructed by the Company where the interconnection is at 33KV or lower voltage

(v) To coordinate with State Transmission Utility and assist the Company in obtaining approval for the interconnection facilities where the interconnection is at 66 KV or above voltages, for synchronization Commercial Operation, regular operation etc., as required by the Company.

(vi) To provide start up power required for the plant as and when necessary and requested for.

ARTICLE 6

RATES AND CHARGES

6.1 All the Delivered Energy at the interconnection point for sale to DISCOM will be purchased at the tariff provided for in Article 6.2 from and after the date of Commercial Operation of the Project. Title to Delivered Energy purchased shall pass from the Wind Power Producer to the DISCOM at the Interconnection Point.

6.2 The Wind Power Producer shall be paid tariff for energy delivered at the interconnection point for sale to DISCOM, which shall be firm at Rs..... (Rupees.....only) per unit (KWh) for a period of ..... years from the Commercial Operation Date (COD) as per State ERC order No ..... dated.....

6.3 The tariff is inclusive of all taxes, duties and levies.

6.4 In case induction generators are used for generation of energy, for each KVARH drawn from the grid, the Company shall pay at the rate of ..... paise for each KVARH drawn, as determined by .....State Commission from time to time.

6.5 The Company shall be permitted to use 10% of the installed capacity for startup, after inspection by the concerned officers of the Distribution utility and 105% of such energy provided by the Distribution utility for startup purposes shall be deducted from the energy pumped into the Grid by the Company for determining the amount to be paid by the Distribution utility to the Company.

ARTICLE 7

BILLING AND PAYMENT

7.1 **Tariff Invoices:** The Company shall submit to the Designated officer of the Distribution utility, a Monthly Invoice for each Billing Period in the format prescribed by the Distribution utility from time to time setting forth those amounts payable by the Distribution utility for the Delivered Energy in accordance with Clause 6.1. The Monthly Invoice shall be :

DE = X1 – (X1 x Z%)

Where
DE is the Delivered Energy pertaining to the Project
X1 is the reading of the energy meter installed at the Project Site.
Z is the percentage transmission line loss incurred in the transmission line between the Project and the Receiving Station and shall be:

$$Z = \left\{ \frac{(X1 + X2 + X3 + X4 + \_\_\_\_\_) - Y}{(X1 + X2 + X3 + X4 + \_\_\_\_\_)} \right\} \times 100$$

Where

Y is the reading of the bulk energy meter installed on the …. KV side of the Receiving Station
X2, X3, X4 etc. are the readings of the energy meters installed at the various individual windmill power projects being developed/proposed to be set up in the area and connected to the Receiving Station.

7.2 **Escrow Agreement:** An Escrow agreement would be signed between the DISCOM and the company for direct payment of receivable as the invoices submitted by the company.
OR

7.3 **Payment:** the Distribution utility shall make payment of the amounts due in Indian Rupees within thirty (30) days from the date of receipt of the Tariff Invoice by the designated office of the Corporation.

7.4 **Late Payment:** If any payment from the Distribution utility is not paid when due, there shall be due and payable to the Company interest at the rate of SBI medium term lending rate per annum for such payment from the date such payment was due until such payment is made in full.

7.5 **Disputes:** In the event of a dispute as to the amount of any Monthly Invoice, the Distribution utility shall notify the Company of the amount in dispute and the Distribution utility shall pay the Company the total Monthly Invoice including the disputed amount. The Parties shall discuss within a week from the date on which the Distribution utility notifies the company of the amount in dispute and try and settle the dispute amicably. If the dispute is not settled during such discussion then the payment made by the Distribution utility shall be considered as a payment under protest. Upon resolution of the dispute, in case the Company is subsequently found to have overcharged, then it shall return the overcharged amount with an interest of SBI medium term lending rate per annum for the period it retained the additional amount. the Distribution utility /Company shall not have the right to challenge any Monthly Invoice, or to bring any court or administrative action of any kind questioning/modifying a Monthly Invoice after a period of one year from the date the Monthly Invoice is due and payable.

7.6 **Letter of Credit:** the Distribution utility shall establish and maintain transferable, assignable, irrevocable and unconditional non-revolving Letter of Credit in favour of, and for the sole benefit of, the Company. The Letter of Credit shall be established in favour of, and issued to, the Company on the date hereof and made operational thirty (30) days prior to the Commercial Operation Date of the Project and shall be maintained consistent herewith by the Distribution utility at any and all times during the Term of the Agreement. Such Letter of Credit shall be in form and substance acceptable to both the Parties and shall be issued by any Scheduled Bank and be provided on the basis that:

(i) In the event a Tariff Invoice or any other amount due and payable by the Distribution utility pursuant to the terms of this Agreement is not paid in full by the Distribution utility as and when due, the Letter of Credit may be called by the Company for payment in full of the unpaid Monthly Invoice or any such other unpaid amount.

(ii) The foregoing as determined pursuant hereto, upon representation of such Monthly Invoice or other invoice or claim for such other amount by the Company on the due date therefor or at any time thereafter, without any notification, certification or further action being required.

(iii) The amount of the Letter of Credit shall be equal to one month's projected payments payable by the Distribution utility based on the average of annual generation.

(iv) The Distribution utility shall replenish the Letter of Credit to bring it to the original amount within 30 days in case of any valid drawdown.

(v) The Letter of Credit shall be renewed and/or replaced by the Distribution utility not less than 60 days prior to its expiration.

7.7 **Payment under the Letter of Credit:** The drawal under the Letter of Credit in respect of a Tariff Invoice shall require:

(i) a copy of the metering statement jointly signed by the official representatives of the Parties, supporting the payments attributable to the Delivered Energy in respect of such Monthly Invoice.

(ii) a certificate from the Company stating that the amount payable by the Distribution utility in respect of such Monthly Invoice has not been paid by the Distribution utility till the Due Date of Payment of the Monthly Invoice.

ARTICLE 8

METERING AND COMMUNICATION

8.1 **Metering:** The Delivered Energy shall be metered by the Parties at the interconnection point.

8.2 **Metering Equipment:** Metering equipment shall be electronic trivector meters of accuracy class 0.2 class required for the Project (both main and check meters) as per the applicable Metering regulation by CEA on the date of signing of this agreement. The main meter shall be installed and owned by the Company, whereas check meters shall be installed and owned by the Distribution utility. Dedicated core of both CT's and PT's of required accuracy shall be made available by the Company to Distribution utility. The metering equipment shall be maintained in accordance with electricity standards. Such equipment shall have the capability of recording half-hourly and monthly readings. The Company shall provide such metering results to the Distribution utility. The meters installed shall be capable of recording and storing half hourly readings of all the electrical parameters for a minimum period of 35 days with digital output.

8.3 **Meter Readings:** The monthly meter readings (both main and check meters) at the Project Site and the Receiving Station shall be taken simultaneously and jointly by the Parties on the first day of the following month at 12 Noon. The recorded metering data shall be downloaded through meter recording instrument. At the conclusion of each meter reading an appointed representative of the Distribution utility and the Company shall sign a document indicating the number of kilowatt-hours indicated by the meter. The Company shall pay to the Distribution utility, charges, as notified by the Distribution utility from time to time, to read, record and calibrate each additional energy meter installed by the Company other than the bulk energy meter, for the purpose of determination of the losses in the transmission lines constructed and maintained by the Company for the purpose of interconnection with the Grid System and for the facilitation of settlement of the Monthly Invoices.

8.4 **Inspection of Energy Meters:** All the main and check energy meters (export and import) and all associated instruments, transformers installed at the Project shall be of 0.2 class

accuracy. Each meter shall be jointly inspected and sealed on behalf of the Parties and shall not be interfered with by either Party except in the presence of the other Party or its accredited representatives.

8.5 **Meter Test Checking:** All the main and check meters shall be tested for accuracy every calendar quarter with reference to a portable standard meter which shall be of an accuracy of 0.1 Class. The portable standard meter shall be owned by the Distribution utility at its own cost and expense and tested and certified at least once every year against an accepted laboratory standard meter in accordance with electricity standards. The meters shall be deemed to be working satisfactorily if the errors are within specifications for meters of 0.2 accuracy class. The consumption registered by the main meters alone will hold good for the purpose of billing as long as the error in the main meter is within the permissible limits.

(i) If during the quarterly tests, the main meter is found to be within the permissible limit of error and the corresponding check meter is beyond the permissible limits, then billing will be as per the main meter as usual. The check meter shall, however, be calibrated immediately.

(ii) If during the quarterly tests, the main meter is found to be beyond permissible limits of error, but the corresponding check meter is found to be within permissible limits of error, then the billing for the month up to the date and time of such test shall be as per the check meter. There will be a revision in the bills for the period from the previous calibration test up to the current test based on the readings of the check meter. The main meter shall be calibrated immediately and billing for the period thereafter till the next monthly meter reading shall be as per the calibrated main meter.

(iii) If during the quarterly tests, both the main meters and the corresponding check meters are found to be beyond the permissible limits of error, both the meters shall be immediately calibrated and the correction applied to the reading registered by the main meter to arrive at the correct reading of energy supplied for billing purposes for the period from the last month's meter reading up to the current test. Billing for the period thereafter till the next monthly meter reading shall be as per the calibrated main meter.

(iv) If during any of the monthly meter readings, the variation between the main meter and the check meter is more than that permissible for meters of 0.2 Class accuracy, all the meters shall be re-tested and calibrated immediately

8.6 **Interconnection and Metering Facilities:** The Company shall provide dedicated core for the check metering. Both the main meter and the check meter shall be installed nearest to the PT in outdoor yard and shall be housed in a suitable weatherproof cubicle.

8.7 **Communication Facilities:** The Company shall install and maintain at its cost communication facilities such as fax and telecommunication facilities to the Project to enable receipt of data

at the Load Despatch Centre as per the provisions of the ..... state grid code and or Indian electricity Grid code.

ARTICLE 9

FORCE MAJEURE

9.1 **Force Majeure Events:**

(i) Neither Party shall be responsible or liable for or deemed in breach hereof because of any delay or failure in the performance of its obligations hereunder (except for obligations to pay money due prior to occurrence of Force Majeure events under this Agreement) or failure to meet milestone dates due to any event or circumstance (a "Force Majeure Event") beyond the reasonable control of the Party experiencing such delay or failure, including the occurrence of any of the following:

(a) Acts of God;
(b) Typhoons, floods, lightning, cyclone, hurricane, drought, famine, epidemic, plague or other natural calamities;
(c) Strikes, work stoppages, work slowdowns or other labour dispute which affects a Party's ability to perform under this Agreement;
(d) Acts of war (whether declared or undeclared), invasion or civil unrest;
(e) Any requirement, action or omission to act pursuant to any judgment or order of any court or judicial authority in India (provided such requirement, action or omission to act is not due to the breach by the Company or Distribution utility of any Law or any of their respective obligations under this Agreement);
(f) Inability despite complying with all legal requirements to obtain, renew or maintain required licenses or Legal Approvals;
(g) Earthquakes, explosions, accidents, landslides;
(h) Fire;
(i) Expropriation and/or compulsory acquisition of the Project in whole or in part;
(j) Chemical or radioactive contamination or ionising radiation; or
(k) Damage to or breakdown of transmission facilities of either Party;
(l) Breakdown of generating equipment of the Company;
(m) Breakdown of the Project equipment;

(ii) The availability of Clause 9.1 to excuse a Party's obligations under this Agreement due to a Force Majeure Event shall be subject to the following limitations and restrictions:

(a) The non-performing Party gives the other Party written notice describing the particulars of the Force Majeure Event as soon as practicable after its occurrence;
(b) The suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure Event;
(c) The non-performing Party is able to resume performance of its obligations under this Agreement, it shall give the other Party written notice to that effect;

(d) The Force Majeure Event was not caused by the non-performing Party's negligent or intentional acts, errors or omissions, or by its negligence/failure to comply with any material Law, or by any material breach or default under this Agreement;

(e) In no event shall a Force Majeure Event excuse the obligations of a Party that are required to be completely performed prior to the occurrence of a Force Majeure Event.

9.2 **Payment Obligations:** For avoidance of doubt, neither Party's obligation to make payments of money due and payable prior to occurrence of Force Majeure events under this Agreement shall be suspended or excused due to the occurrence of a Force Majeure Event in respect of such Party.

ARTICLE 10

TERM, TERMINATION AND DEFAULT

10.1 **Term of the Agreement:** This Agreement shall become effective upon the execution and delivery thereof by the Parties hereto and unless terminated pursuant to other provisions of the Agreement, shall continue to be in force for such time until the completion of a period of twenty (20) years from the Commercial Operation Date and may be renewed for such further period of ten (10) years under such terms and conditions as may be mutually agreed upon between the Parties subject to approval by the Commission ninety (90) days prior to the expiry of the said period of twenty (20) years.

10.2 **Events of Default:**

(i) Company's Default: The occurrence of any of the following events at any time during the Term of this Agreement shall constitute an Event of Default by Company:

a. Failure or refusal by Company to perform any of its material obligations under this Agreement.

(ii) Distribution utility Default: The occurrence of any of the following at any time during the Term of this Agreement shall constitute an Event of Default by Distribution utility:

a. Failure or refusal by Distribution utility to perform its financial and other material obligations under this Agreement.
b. Payment default by the Distribution utility for a continuous period of three months.

10.3 **Termination:**

(i) **Termination for Company's Default:** Upon the occurrence of an event of default, a Default Notice to the Company in writing which shall specify in reasonable detail the Event of Default and calling upon the Company to remedy the same within such reasonable time not less than thirty days as may be specified in the notice.

At the expiry of the time specified in the default notice from the delivery of default notice to remedy the default and unless the Parties have agreed otherwise, or the Event of Default giving rise to the default notice has been remedied, Distribution utility may terminate this Agreement by delivering a Termination Notice to the Company and intimate the same to the Commission. Upon delivery of the Termination Notice this Agreement shall stand terminated and Distribution utility shall stand discharged of all its obligations. However all payment obligations as per Article 6 prior to the date of termination of the Agreement shall be met by the Parties.

(ii) **Termination for Distribution Utility Default:** Upon the occurrence of an Event of Default, the Company may deliver a Default Notice to Distribution utility in writing which shall specify in reasonable detail the Event of Default giving rise to the Default Notice, and calling upon Distribution utility to remedy the same.

At the expiry of 30 (thirty) days from the delivery of this default notice and unless the Parties have agreed otherwise, or the Event of Default giving rise to the Default Notice has been remedied, Company may deliver a Termination Notice to Distribution utility. Company may terminate this Agreement by delivering such a Termination Notice to Distribution utility and intimate the same to the Commission. Upon delivery of the Termination Notice this Agreement shall stand terminated and Company shall stand discharged of all its obligations.

(iii) Where a Default Notice has been issued and which requires the co-operation of both Distribution utility and the Company to remedy, both the parties shall render all reasonable co-operation to enable the Event of Default to be remedied.

ARTICLE 11

DISPUTE RESOLUTION

11.1 All disputes or differences between the Parties arising out of or in connection with this Agreement shall be first tried to be settled through mutual negotiation.

11.2 The Parties hereto agree to attempt to resolve all disputes arising hereunder promptly, equitably and in good faith, through mutual negotiations

11.3 Each Party shall designate in writing and communicate to the other Party its own representative who shall be authorized to resolve any dispute arising under this Agreement in an equitable manner and, unless otherwise expressly provided herein, to exercise the authority of the Parties hereto to make decisions by mutual agreement.

11.4 If the designated representatives are unable to resolve a dispute under this Agreement within thirty days after such dispute arises, such dispute shall be referred to higher authorities designated by the Parties for resolution of the dispute.

11.5 In the event that such differences or disputes between the Parties are not settled through mutual negotiations within ninety (90) days after such dispute arises, then it shall be referred to the Commission for dispute resolution in accordance with the provision in the Electricity Act 2003.

ARTICLE 12

INDEMNITY

12.1 **Company's Indemnity:** The Company agrees to defend, indemnify and hold harmless Distribution utility, its officers, directors, agents, employees and affiliates (and their respective officers, directors, agents and employees) from and against any and all claims, liabilities, actions, demands, judgments, losses, costs, expenses, suits, actions and damages arising by reason of bodily injury, death or damage to property sustained by third parties that are caused by an act of negligence or the willful misconduct of the Company, or by an officer, director, sub-contractor, agent or employee of the Company except to the extent of such injury, death or damage as is attributable to the willful misconduct or negligence of, or breach of this Agreement by, Distribution utility, or by an officer, director, sub-contractor, agent or employee of the Distribution utility.

12.2 **Distribution utility Indemnity:** Distribution utility agrees to defend, indemnify and hold harmless the Company, its officers, directors, agents, employees and affiliates (and their respective officers, directors, agents and employees) from and against any and all claims, liabilities, actions, demands, judgments, losses, costs, expenses, suits, actions and damages arising by reason of bodily injury, death or damage to property sustained by third parties that are caused by an act of negligence or the wilful misconduct of Distribution utility, or by an officer, director, sub-contractor, agent or employee of Distribution utility except to the extent of such injury, death or damage as is attributable to the willful misconduct or negligence of, or breach of this Agreement by the Company, or by an officer, director, sub-contractor, agent or employee of the Company.

ARTICLE 13

MISCELLANEOUS PROVISIONS

13.1 **Governing Law:** This Agreement shall be interpreted, construed and governed by the Laws of India.

13.2 **Insurance:** The Company shall obtain and maintain necessary policies of insurance during the Term of this Agreement consistent with Prudent Utility Practice.

13.3 **Books and Records:** The Company shall maintain books of account relating to the Project in accordance with generally accepted Indian accounting principles.

13.4 **Waivers:** Any failure on the part of a Party to exercise, and any delay in exercising, exceeding three years, any right hereunder shall operate as a waiver thereof. No waiver by a Party of any right hereunder with respect to any matter or default arising in connection with this Agreement shall be considered a waiver with respect to any subsequent matter or default.

13.5 **Limitation Remedies and Damages:** Neither Party shall be liable to the other for any consequential, indirect or special damages to persons or property whether arising in tort, contract or otherwise, by reason of this Agreement or any services performed or undertaken to be performed hereunder.

13.6 **Notices:** Any notice, communication, demand, or request required or authorized by this Agreement shall be in writing and shall be deemed properly given upon date of receipt if delivered by hand or sent by courier, if mailed by registered or certified mail at the time of posting, if sent by fax when dispatched (provided if the sender's transmission report shows the entire fax to have been received by the recipient and only if the transmission was received in legible form), to :

In case of the Company: M/s……

Telephone No. : (……..) –
Fax No. : (……..) –

In case of Distribution utility:
The General Manager (Technical)
……
……
……..

Telephone No. : ……
Fax No. : ……..

The Chief Engineer, Electricity
Distribution utility
Telephone No. : (……)

Fax No. : (……..)

13.7 **Severability:** Any provision of this Agreement, which is prohibited or unenforceable in any jurisdiction, shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and without affecting the validity, enforceability or legality of such provision in any other jurisdiction.

13.8 **Amendments:** This Agreement shall not be amended, changed, altered, or modified except by a written instrument duly executed by an authorized representative of both Parties. However, Distribution utility may consider any amendment or change that the Lenders may require to be made to this Agreement subject to the approval of the Commission.

13.9 **Assignment:**

(i) Neither Party shall assign this Agreement or any portion hereof without the prior written consent of the other Party, provided further that any assignee shall expressly assume the assignor's obligations thereafter arising under this Agreement pursuant to documentation satisfactory to such other Party.

(ii) Distribution utility shall consent to the assignment by the Company of its rights herein to the Financing Parties and their successors and assigns in connection with any financing or refinancing related to the construction, operation and maintenance of the Project and shall execute documents reasonably satisfactory to the Financing Parties if requested by the Company to evidence such consent. In furtherance of the foregoing, Distribution utility acknowledges that the Financing Documents may provide that upon an event of default by the Company under the Financing Documents, the Financing Parties may cause the Company to assign to a third party the interests, rights and obligations of the Company thereafter arising under this Agreement. Distribution utility further acknowledges that the Financing Parties, may, in addition to the exercise of their rights as set forth in this Section, cause the Company to sell or lease the Project and cause any new lessee or purchaser of the Project to assume all of the interests, rights and obligations of the Company thereafter arising under this Agreement.

13.10 **Entire Agreement, Appendices:** This Agreement constitutes the entire agreement between Distribution utility and the Company, concerning the subject matter hereof. All previous documents, undertakings, and agreements, whether oral, written, or otherwise, between the Parties concerning the subject matter hereof are hereby cancelled and shall be of no further force or effect and shall not affect or modify any of the terms or obligations set forth in this Agreement, except as the same may be made part of this Agreement in accordance with its terms, including the terms of any of the appendices, attachments or exhibits. The appendices, attachments and exhibits are hereby made an integral part of this Agreement and shall be fully binding upon the Parties.

In the event of any inconsistency between the text of the Articles of this Agreement and the appendices, attachments or exhibits hereto or in the event of any inconsistency between the provisions and particulars of one appendix, attachment or exhibit and those of any other appendix, attachment or exhibit …DISCOM and the Company shall consult to resolve the inconsistency.

13.11 **Further Acts and Assurances:** Each of the Parties after convincing itself agrees to execute and deliver all such further agreements, documents and instruments, and to do and perform all such further acts and things, as shall be necessary or convenient to carry out the provisions of this Agreement and to consummate the transactions contemplated hereby.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their fully authorised officers, and copies delivered to each Party, as of the day and year first above stated.

FOR AND ON BEHALF OF THE DISTRIBUTION UTILITY

_____

WITNESSES

1. _____

2. _____

FOR AND ON BEHALF OF COMPANY

_____

WITNESSES

1. _____

2. _____

SCHEDULE 1

PROJECT AND SITE CHARACTERISTICS

1. Capacity of the Plant: ……MW.
2. Location:
3. Taluk:
4. District:
5. Survey Nos. and extent of land:
6. No. of Units : ……..nos. of ……Kilowatts.
7. Nearest receiving station of Distribution utility/STU: KV Sub-station at.

SCHEDULE 2
TECHNICAL LIMITS

1. The nominal steady state electrical characteristics of the system are as follows:

   a) three phase alternating current at 50 Hertz plus or minus 0.5 Hertz

   b) nominal voltage of ….. KV with +10% to – 12.5% variation.

   c) a power factor (at maximum rated power) between 0.85 lagging and 0.95 leading

2. The Project shall be designed and capable of being synchronized and operated within a frequency range of 47.5 to 51.5 Hertz and voltage of …….. KV and ……. KV and a power factor (at maximum rated power) between 0.85 lagging and 0.95 leading at the generator terminals.

3. Each unit shall be capable of generating and delivering reactive power corresponding to a power factor as specified in item 1 (c) above.

4. Operation of the Project outside the nominal voltage and power factor range specified above will result in reduction of power output consistent with generator capability curves.

SCHEDULE 3

GOVERNMENT ORDERS

Government Order No……. dated ……according approval to M/s…….. to set up ……. MW windmill power project at…… Village, ……District.

Government Order No…….. dated ……. transferring a capacity of …….. MW to M/s…… from the ……MW capacity allocated to M/s…….

Agreement dated between Government of ……and M/s……

SCHEDULE 4

APPROVALS

1. Consent from the DISCOM for the comprehensive evacuation scheme for evacuation of the power generated by the proposed windmill power projects of M/s. vide letter No.
2. Approval of the Electrical Inspectorate of the concerned state for commissioning of the transmission line and the wind energy converters installed at the Project Site.
3. Approval of the Corporation for interconnection of the Project to the Grid System.
4. Certification of Commissioning the Project issued by DISCOM
5. Permission from all other statutory and non-statutory bodies required for the Project.
6. Clearance from the Airport Authority of India.
7. Clearance from the Department of Forest, Ecology and Environment.
8. Any other approvals/permits specific to the project
9. Approval of the Commission for this Agreement vide letter No. dated

SCHEDULE 5

TESTING PROCEDURES

Company and Distribution utility shall evolve suitable testing procedures three (3) months before the Commercial Operation Date of the Project considering relevant standards.

SCHEDULE 6

SPECIFICATION OF ELECTRICAL ENERGY DELIVERY

1. The generation voltage from the windmill power project of M/s. is…….. KV. It uses unit connection of generator, generator transformer and unit transformer.
2. The generated power at ……..KV will be stepped up to ……KV at the Project Site and further stepped up to ……KV at the Receiving station maintained by the Company and its associates at ……..Village in ……..District for the purpose of interconnection with the Corporation/…DISCOM grid at the Sub Station of the ..DISCOM/Corporation. ……..KV/……..KV GT's will also be used to draw start up power from the grid.