

**SUPPLY, INSTALLATION, OPERATION AND
MAINTENANCE AGREEMENT**

[•] 2018

BETWEEN

DIRECTORATE OF MUNICIPAL ADMINISTRATION (DMA), ODISHA,

.....[INSERT NAME OF THE SELECTED BIDDER/PROJECT SPV]

AND

ULBS REPRESENTING CLUSTER

[Note: The draft SIOM Agreement is required to be executed separately for each of the five Clusters.]

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SUPPLY, INSTALLATION, OPERATION AND MAINTENANCE AGREEMENT

This SUPPLY, INSTALLATION, OPERATION AND MAINTENANCE AGREEMENT (**Agreement**) is entered into on this _____ 2018.

BETWEEN:

- (1) **DIRECTORATE OF MUNICIPAL ADMINISTRATION** represented by, with its principal office at [●] (hereinafter referred to as the **Authority**, which expression shall unless repugnant to the context or meaning thereof include its successors and permitted assigns);
- (2) [*Name of the [Selected Bidder]/¹Project SPV*], with its registered office at [●] (hereinafter referred to as the [**Selected Bidder**]²/**Project SPV**, which expression shall unless repugnant to the context or meaning thereof include its successors and permitted assigns).

AND

- (3) **ULBs representing the Cluster [●] (hereinafter called as ULBs) [*List of ULBs in the Cluster is provided in recital to this Agreement along with Schedule 4*]**.

The Authority, the Project SPV and ULBs shall collectively be referred to as the **Parties** and individually as a **Party**.

WHEREAS:

- A. The Authority together with the ULBs have administrative control of and responsibility for the Greenfield Public Street Lighting System (*as defined below*) of the Cluster (*as defined below*).
- B. The Government of Odisha (**GoO**), the Authority and the ULBs wish to develop an energy efficient Greenfield Public Street Lighting System in the Cluster on a public private partnership basis.
- C. On 2018, the Authority with support from Odisha Urban Infrastructure Development Fund (OUIDF) and OUIDF appointed Transaction Advisor (*as defined below*), along with ULBs commenced a competitive bidding process by issuing the Request for Proposal (the **RFP**) inviting the prospective bidders to submit their technical and financial proposals.
- D. Pursuant to the terms of the RFP, [*Insert name of the Selected Bidder*] submitted its technical and financial proposals to implement the Project on [●] 2018 (the **Bid**).
- E. Following a process of evaluation of technical and financial proposals submitted by the bidders (including [*Insert name of the Selected Bidder*]), the Authority accepted the Bid on [*Date of Bid Acceptance*]. Director, Municipal Administration, Directorate of Municipal Administration, Housing and Urban Development Department, Government of Odisha

¹ Applicable if the Selected Bidder is executing the SIOM Agreement.

² Applicable if the Selected Bidder is executing the SIOM Agreement.

(DMA) issued the letter of award on [●] 2018 to [Insert name of the Selected Bidder] (the LOA).

- F. [Insert name of the Selected Bidder] accepted the LOA and has agreed to implement, operate and maintain the Project during the Term.
- G. [Insert name of the Selected Bidder] has fulfilled the conditions precedent to the execution of this Agreement as required pursuant to the LOA (unless waived by the Authority).
- [H. The Selected Bidder has since informed the Authority by its letter of [Date of the letter], 2018 that it undertakes to incorporate the Project SPV, within 30 Days from the date of executing this Agreement and once incorporated, the Project SPV is the entity which shall undertake and perform the obligations of the Selected Bidder.

OR

- H. The Selected Bidder has since incorporated the Project SPV and informed the Authority by its letter of [Date of the letter], 2018 that the Project SPV is the entity which shall undertake and perform the obligations of the Selected Bidder, including the obligation to enter into this Agreement.]³
- I. The Parties now wish to enter into this Agreement to implement the Project, subject to and on the terms and conditions set out in this Agreement.

IT IS AGREED as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, unless the context requires otherwise, capitalised terms shall have the meaning given to them in the table below. Capitalised terms not defined below shall have the meaning given to them in the SHA (*as defined below*).

Abandonment	means the total cessation of any of the obligations of the Project SPV under this Agreement for a continuous period of 3 Days, other than as a result of a Force Majeure Event or a Qualifying Change in Law.
Affected Party	has the meaning ascribed to it in Clause 19.1(a)(i).
Agreement	means this supply, installation, operation and maintenance agreement, along with its Schedules, Annexes and any amendments that may be made to it from time to time.
Amendment Agreement	has the meaning ascribed to it in Clause 3.3.

³ Applicable if the Selected Bidder decides to incorporate the Project SPV after executing the SIOM Agreement.

Annuity Fee	means INR. [●] ⁴ per month.
Applicable Laws	means all laws in force and effect as on the Execution Date and which may be promulgated or brought in force and effect in India, including Odisha, after the Execution Date, including statutes, rules, regulations, directions, bye-laws, notifications, ordinances and judgements with the force of law, any final interpretation by a court with jurisdiction over the matter in question.
Applicable Permits	means any permissions, clearances, concessions, authorisations, consents, licenses, permits, rulings, exemptions, no-objections, resolutions, filings, orders, notarisations, lodgements or registrations or approvals of whatsoever nature that are required to be obtained by the Project SPV from time to time in connection with the Project and to undertake, perform or discharge its obligations contemplated by this Agreement in accordance with Applicable Laws.
Arbitration Act	means the Arbitration and Conciliation Act, 1996.
Associate	means in respect of any Person, any other Person that Controls, is Controlled by or is under common Control with the first mentioned Person.
Authority Event(s) of Default	means any or all the events listed in Clause 20.1(b).
Authority Related Parties	means any of the following: <ul style="list-style-type: none"> (a) an officer, servant, employee or agent of the Authority acting in that capacity; (b) any contractor including any third party appointed by the Authority pursuant to Clause 7 or sub-contractor of the Authority of any tier and their directors, officers, servants, employees or agents acting in that capacity; or (c) any Person acting on behalf of the Authority.
Authority Representatives	means the Person appointed by the Authority to represent it and to carry out any of its functions and exercise powers under this Agreement.

⁴ To be based on the Selected Bidder's Financial Proposal (including Annuity component and O&M component), and the number of Project Street Light Points installed and commissioned by the Project SPV set out in Schedule 1.

Authority's Step-In Right	has the meaning ascribed to it in Clause 21.9.
Bid	has the meaning ascribed to it in Recital D.
Bidder	means an interested company or Consortium, which submitted its bid to the Authority in accordance with the provisions of the RFP.
Business Day	means a Day on which the GoO and the Authority is open for business in the Cluster and Bhubaneswar.
CCMS	Shall mean Central Control & Monitoring System set up and commissioned by the Project SPV in the Cluster and operated by Project SPV over Project Term.
Capital Subsidy	means the subsidy ⁵ that the Authority and the ULBs shall pay to the Project SPV in accordance with Clause 13.1(a) to implement the Project.
Change in Law	<p>means the occurrence of any of the following events subsequent to the Execution Date:</p> <ul style="list-style-type: none"> (a) the modification, amendment, variation, alteration or repeal of any existing Applicable Law; (b) the enactment of any new Applicable Law or the imposition, adoption or issuance of any new Applicable Law by any Government Authority; (c) changes in the interpretation, application or enforcement of any Applicable Law or judgement by any Government Authority; (d) the introduction of a requirement for the Project SPV to obtain any new Applicable Permit; or (e) the introduction of any new Tax or a change in the rate of an existing Tax. <p>It is clarified that for the purposes of Change in Law, Taxes shall not include taxes on corporate income or income tax.</p>
Cluster	Shall mean a cluster of districts identified under Schedule 4 of this Agreement and refers to Cluster [●] for the purpose of the Project.

⁵ To be calculated as 90% of the Total Capital Expenditure (as calculated as per the provisions of this Agreement) applicable to the Cluster.

Companies Act	means the Companies Act, 1956 as amended, modified or re-enacted by the Companies Act, 2013 and any other enactments from time to time including any rules or regulations framed under it.
Conditions Precedent	means, collectively, the obligations of the Parties as set out in Clauses 2.2, fulfilment of which shall be necessary for the effectiveness of this Agreement and Condition Precedent means any one of them.
Confidential Information	means any part of this Agreement or any information contained in this Agreement or any material provided to any of the Parties pursuant to this Agreement, all of which information shall be deemed to be confidential, except to the extent that this Agreement otherwise requires or the Parties agree otherwise in writing.
Control	means (a) the power to direct the management, operations and/or policies of any Person through contract or otherwise, (b) the beneficial ownership, directly or indirectly of more than 50% of voting securities of any Person, or (c) the right to appoint or elect majority of the board of directors of any Person The term Controlled shall be construed accordingly.
CP Waiver Notice	has the meaning ascribed to it in Clause 2.3(c).
Day	means a 24 hour period beginning at 0:00 hours IST and ending at 11:59 hours IST.
Delay Liquidated Damages	has the meaning ascribed to it in Clause 14.1.
Discom	means the electricity distribution licensee supplying electricity in the administrative area of respective ULB of the Cluster;
Dispute	has the meaning ascribed to it in Clause 23.1.
Dispute Meeting	has the meaning ascribed to it in Clause 23.1.
Dispute Notice	has the meaning ascribed to it in Clause 23.1.
Effective Date	means the date on which the last of the Conditions Precedent is satisfied or waived by a Party for whose benefit such Condition Precedent had been included under Clause 2.
Emergency	means an event causing, or in the reasonable opinion of the Authority and the Project SPV, threatening to cause death or serious injury to any individual, or serious disruption to the lives of a number of people or extensive

	damage to property or is against national interest.
Encumbrances	means mortgage, charge, pledge, lien (statutory or otherwise), assignment, assignment by way of security, hypothecation, trust, preference, priority, designation as loss payee under insurance contracts or other security interest securing any obligation of any Person or any other agreement or arrangement having a similar effect.
Equipment	means any equipment, including LED Luminaire, feeder panels, communication, control, protection, automation, cables/wires with holding arrangement for overhead supply cable, poles with pole junction box, outreach arms, earthing electrodes, GI earthing strip and associated equipment including equipment in the Centralized Control & Monitoring System such as computers, telecommunication systems etc. installed by the Project SPV to implement the Project.
Equipment Commissioning Certificate	has the meaning ascribed to in Clause 5.5(d).
Equipment Installation Plan	means a plan for the installation of Equipment to be submitted by the Project SPV to the Authority for approval by the Authority after completion of the Joint Survey.
Equipment Rate	means the price per unit of the Equipment quoted by the Selected Bidder in its Financial Proposal and as set out in the Schedule 7.
Escrow Account	means the bank account opened with the Escrow Agent.
Escrow Agent	has the meaning ascribed to in Clause 2.2(b)(i).
Escrow Agreement	means the agreement to be executed amongst the Escrow Agent, the Authority and the Project SPV pursuant to Clause 2.2(b)(ii) and substantially in the format attached at Annex 2, setting out the terms and conditions to open and operate the Escrow Account for the purposes of payment of the Capital Subsidy to the Project SPV, in accordance with the terms of this Agreement.
Event of Default	has the meaning ascribed to it in Clause 20.1.
Execution Date	means the date of execution of this Agreement.
Expiry Date	means the date which is the 7 th anniversary of the Project COD, unless extended in accordance with the terms of this

	Agreement.
Financial Proposal	means the financial proposal submitted by the Selected Bidder as a part of its Bid.
Financial Year	means a year commencing on 1 April of any calendar year and ending on 31 March of the following calendar year.
FM Notice	has the meaning ascribed to it in Clause 19.2.
Force Majeure Event	has the meaning ascribed to it in Clause 19.1(a).
Fundamental Change in Law	means any Change in Law that: <ul style="list-style-type: none"> (a) renders unenforceable, illegal, invalid or void any material right or material obligation of the Project SPV under this Agreement; or (b) results in the Project SPV being deprived of the whole or a substantial part of the benefit of this Agreement.
Good Industry Practice	means the exercise of that degree of skill, diligence and prudence and those practices, methods, specifications and standards of equipment, safety and performance, as may change from time to time and which are reasonably and ordinarily expected to be used by a skilled and experienced contractor or operator engaged in installation, management, operation and maintenance of facilities, equipment or systems of the type and size similar to the Project.
Government Authority(ies)	means one or more of the Government of India, the GoO, any local government or any other ministry, governmental department, commission, board, body, bureau, agency, authority, instrumentality, inspectorate, statutory corporation or body corporate over which the Government of India or the GoO exercises control, court or other judicial or administrative body or official or Person, having jurisdiction over the Project SPV, the Project or any portion thereof and the performance of obligations and exercise of rights of the Parties in accordance with the terms of this Agreement.
Greenfield Public Street Lighting System	means entire greenfield street lighting infrastructure including LED Luminaires, outreach arms, communication, control, protection, automation devices, cables/wires, poles, pole junction box, outreach arms, earthing electrodes, GI earthing strip, feeder panels, switchgear, control and protection devices etc. taken together in the Cluster [●] installed as per the approved

	Equipment Installation Plan and mentioned in the Amendment Agreement and Equipment Commissioning Certificate issued by the Authority.
OUIDF	means Odisha Urban Infrastructure Development Fund
Joint Survey	has the meaning ascribed to it in Clause 3.2(b).
Joint Survey Team	has the meaning ascribed to it in Clause 3.2(a)(i).
Joint Survey Report	has the meaning ascribed to it in Clause 3.2(b).
Lead Member	means the Consortium Member nominated by a Consortium to be its lead member with the rights and obligations as set out in the RFP.
LED Luminaire	means a complete lighting unit comprising light emitting diode (LED) packages, together with driver, controller, housing, appurtenances and parts designed to distribute the light, to position and protect the luminaire components and to connect the luminaire to power supply.
LoA	has the meaning ascribed to it in Recital E.
Loss	means all damages, losses, liabilities, costs, expenses, including legal and other professional charges and expenses and charges arising under statute, contract or otherwise in connection with judgements, proceedings, claims, internal costs or demands.
Luminaire	means a complete lighting unit comprising of one or more lamps of any type like induction lamp, LED, sodium vapour lamp, CFL, fluorescent tube light or any other type of lamp together with its housing, connecting power supply wires and appurtenances and parts designed to distribute the light, to position and protect the lamps and to connect the lamps to power supply.
Material Adverse Effect	means the effect of any act or event which materially and adversely affects the ability of any of the Parties to exercise its material rights or perform any of its material obligations under and in accordance with the provisions of this Agreement.
Month	means a calendar month as per the Gregorian calendar.
Non-Political Force Majeure Event	means the events set out in Clause 19.1(b)(i).
Notice of Arbitration	has the meaning ascribed to it in Clause 23.2.

O&M Fee	means the per Project Street Light Point O&M charges quoted by the Selected Bidder in its Financial Proposal and as set out in the Schedule 7.
O&M Services	means the services set out at Schedule 2, to be provided by the Project SPV during the Term.
Party	means the Authority, the Project SPV or ULB.
Payment Statement	has the meaning ascribed to it in Clause 13.2(a).
Performance Bank Guarantee	has the meaning ascribed to it Clause 12.1(a).
Performance Liquidated Damages	has the meaning ascribed to it in Clause 14.2.
Person	means any individual, company, corporation, partnership, joint venture, trust, unincorporated organisation or any other legal entity.
Political Force Majeure Event	means the events set out in Clause 19.1(b)(ii).
Preliminary Notice	means the notice of intended termination of this Agreement by the Party entitled to terminate this Agreement to the other Party setting out, <i>inter alia</i> , the underlying Event of Default.
Project	means designing, implementing, operating and maintaining the Greenfield Public Street Lighting System along with other infrastructure including CCMS and automation specific to Cluster [●] in accordance with this Agreement.
Project COD	shall mean the date when the Project is commissioned by the Project SPV and certified by the Authority;
Project SPV	means the SPV [to be] ⁶ incorporated by the Selected Bidder for implementing the Project.
Project SPV Representative	means the person appointed by the Project SPV to represent it and to carry out any of its functions and powers under this Agreement.
Project SCOD	has the meaning ascribed to in Clause 3.1.

⁶ Applicable if the Selected Bidder is executing the SIOM Agreement.

Project SPV Event of Default	means any or all the events listed in Clause 20.1(a).
Project SPV Related Parties	means Project SPV's agents and contractors and its or their sub-contractors of any tier and its or their directors, officers, employees and workmen in relation to the Project.
Project Street Light Points	means a Street Light Point specifically installed with LED Luminaire forming a part of Greenfield Public Street Lighting System and which the Authority and the Project SPV have either agreed or may agree, pursuant to a Joint Survey or otherwise in accordance with the terms of this Agreement, to constitute a part of the scope of the Project.
Qualifying Change in Law	means any Change in Law: (a) which applies to: (i) the Project and not to other similar projects within Odisha; (ii) the Project SPV, but not to other Persons; or (iii) energy service companies providing energy efficiency services, but not to other Persons; and (b) which was not reasonably foreseeable by the Project SPV as on the Execution Date.
RFP	has the meaning ascribed to it in Recital C.
Rupees or INR.	means Indian Rupees, the lawful currency of India.
Scheduled Bank	means a bank as defined under section 2(e) of the Reserve Bank of India Act, 1934.
Security	includes any mortgage, pledge, lien, encumbrance, security interest, right of set-off, hypothecation, assignment by way of security, retention of title or ownership or any other charge or encumbrance and any other agreement or arrangement having substantially the same economic effect.
Selected Bidder	Means [●] [<i>Insert name of the Selected Bidder</i>].
SHA	has the meaning ascribed to it in Clause 2.2(d)(ii).

Shareholder	means any one or more, as the context may require, Persons holding any shares in the Share Capital of the Project SPV.
Street Light Point	means a unit comprising of one Luminaire including the outreach arm/bracket and pole on which it is mounted along with the cable/wire connecting it to electricity mains and associated dedicated protection, control and switching devices.
Taxes	means any Indian taxes including levies, imposts, cesses, duties and other forms of taxation, including income tax, goods and service tax (GST), value added tax, octroi, entry tax, corporation profits tax, advance corporation tax, capital gains tax, residential and property tax, customs and other import and export duties, excise duties, stamp duty or capital duty (whether central, state or local) on the goods, materials, equipment and services incorporated in and forming part of the Project charged, levied or imposed by any Government Authority, but excludes any interest, penalties and other sums in relation thereto imposed on any account whatsoever.
Term	has the meaning ascribed to it in Clause 4.6(a).
Termination Compensation	means any compensation payable to the Project SPV in accordance with Clause 22.
Termination Date	means the date on which this Agreement is terminated by a Party pursuant to serving a Termination Notice in accordance with its terms.
Termination Notice	means a notice issued by a Party to the other terminating this Agreement in accordance with its terms.
Threshold Limit	has the meaning ascribed to in Clause 17.1(c).
Total Capital Expenditure	shall mean the expenditure, incurred by the Project SPV in supply, installation and commissioning of the Greenfield Public Street Lighting System and Equipment and other infrastructure in the Project including CCMS, and as confirmed and approved by respective ULBs and the Authority.
Transaction Advisor	means the Consultant (M/s Deloitte Touché Tohmatsu India LLP) appointed by OUIDF to develop the bid documents, support OUIDF in managing the bid process and independent validation of the Joint Survey and Equipment Installation Plan up to the Project COD.

Transfer	means to transfer, sell, assign, pledge, hypothecate, create Security in or other Encumbrance on, place in trust, voting or otherwise, transfer by operation of law or in any other way dispose of, whether or not voluntarily, the legal or beneficial interest in the Equity shares of the Project SPV.
Transfer Date	means the Expiry Date or the Termination Date, whichever is earlier.
Vesting Certificate	has the meaning ascribed to it in Clause 25.4.
Wilful Default	means a deliberate or conscious breach of this Agreement by any of the Parties which has a Material Adverse Effect on the other Party.

1.2 Interpretation

In this Agreement, except where the context otherwise requires:

- (a) the masculine includes the feminine and vice-versa;
- (b) the singular includes the plural and vice-versa;
- (c) any reference to a statute or statutory provision shall include such statute or provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder;
- (d) a reference to any clause, annex, schedule or recital shall refer, except where expressly stated to the contrary, to Clause, Annex, Schedule or Recital of this Agreement;
- (e) save where stated to the contrary, any reference to this Agreement deed or other instrument or to any other document shall include any permitted variation, amendment, novation, or supplement to this Agreement and/or such document, deed or other instrument;
- (f) references to any documents being 'in the agreed form' means such documents have been initialled by or on behalf of each of the Parties for the purposes of identification;
- (g) headings are for convenience of reference only;
- (h) unless otherwise stated, any reference to any period commencing "from" a specific day or date and "till" or "until" a specific day or date shall include both such Days or dates;

- (i) unless otherwise specified, any interest to be calculated and payable under this Agreement shall accrue on a monthly basis and from the respective due dates as provided for in this Agreement;
- (j) any word or expression used in this Agreement, unless defined or construed in this Agreement, shall bear the ordinary English meaning;
- (k) the words "include" and "including" are to be construed without limitation;
- (l) the Annexes and Schedules to this Agreement shall form an integral part of this Agreement and shall be in full force and effect as though they were expressly set out in the body of this Agreement; and
- (m) reference to "Parties" in this Agreement shall include the Authority, the Project SPV and ULBs, unless otherwise stated or the context otherwise requires.

1.3 Measurements and Arithmetic Conventions

All measurements and calculations shall be in the metric system and calculations done to 2 decimal places, with the third digit of 5 or above being rounded up and below being rounded down.

1.4 Payment in Rupees

All payments under this Agreement shall be made in Rupees.

1.5 Responsibility for Related Parties

Subject to the provisions of this Agreement, the Project SPV shall be responsible to the Authority for the acts and omissions of the Project SPV Related Parties as if they were the acts and omissions of the Project SPV and the Authority shall be responsible to the Project SPV for the acts and omissions of the Authority Related Parties as if they were the acts and omissions of the Authority. The Project SPV shall, as between itself and the Authority, be responsible for the selection of and pricing by all the Project SPV Related Parties.

1.6 Corruption and Fraud

When discharging their obligations under the provisions of this Agreement, the Project SPV, its representatives and its employees shall comply with all applicable laws, rules, regulations and provisions of the relevant legal systems, including the 'OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions'.

The Project SPV shall not offer or grant either directly or indirectly any improper advantages to public officials (as defined below) or other individuals in connection with its bid in the tendering process. In addition, it shall not offer or grant any such incentives or conditions when implementing the contract. The Project SPV shall be obliged to notify the Authority in detail immediately in writing if the Project SPV is prompted by a public official or any other persons to make illegal payments.

The Project SPV will inform its members of staff of their respective obligations as well as their obligation to comply with the Declaration of Undertaking and to obey the laws of the country.

Public Official shall be,

- a. any official or employee of a the Authority or any other public authority or an enterprise under the ownership and control of a government;
- b. any person who performs a public function;
- c. any official or staff member of a public international organisation, such as the world bank ;
- d. any candidate for a political office,; or
- e. any political party or official of a political party.

1.7 Approval

Neither giving of any approval, consent, examination, acknowledgement, knowledge of the terms of any agreement or document nor the review of any document or course of action by or on behalf of the Authority, nor the failure of the same, shall unless expressly stated in this Agreement, relieve the Project SPV of any of its obligations under it or of any duty which it may have under this Agreement to ensure the correctness, accuracy or suitability of the matter or thing which is the subject of the approval, consent, examination, acknowledgement or knowledge.

1.8 Succession

References to a public authority, other than the Authority, shall be deemed to include a reference to any successor to such public authority or any organisation or entity which has taken over either or both the functions and responsibilities of such public authority.

1.9 Precedence of Documentation

In the event of any ambiguities or discrepancies within this Agreement the following shall apply:

- (a) between two Clauses of this Agreement, the provisions of the specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;
- (b) between the provisions of this Agreement and the Annexes, the former shall prevail;
- (c) between the Agreement and the RFP, the former shall prevail;.

2. CONDITIONS PRECEDENT

2.1 Effectiveness

Clauses 1, 2, 4.3(f), 7, 12, 16, 17, 18, 19, 23, 24 and 26 and any related Annexes and/or Schedules shall come into force and effect on the Execution Date and other Clauses and any related Annexes shall come into force and effect on the Effective Date.

2.2 Conditions Precedent

(a) ***Time period for satisfaction of Conditions Precedent***

Unless a specific time period is provided for the satisfaction of a particular condition precedent, each Party shall satisfy or procure the satisfaction of the Conditions Precedent for which it is responsible within 30 Days of the Execution Date.

The Parties shall notify each other, together with supporting documentation, where relevant, of the satisfaction of those Conditions Precedent for which they are responsible, promptly and, in any event, no later than 5 Days after the date of satisfaction of each such Condition Precedent.

(b) ***Project SPV and Authority's Conditions Precedent***

The Project SPV and the Authority shall satisfy the following Conditions Precedent, if not already satisfied on or before the Execution Date:

- (i) appoint a Scheduled Bank as the escrow agent for the Project (**Escrow Agent**);
- (ii) execute the Escrow Agreement with the Escrow Agent, *inter-alia*, on the terms and conditions set out in the form of the Escrow Agreement at Annex 2; and
- (iii) [execute the novation agreement with the Selected Bidder in the format set out in Annex 6.]⁷

(c) ***Authority's Conditions Precedent***

The Authority shall satisfy the following Conditions Precedent, if not already satisfied on or before the Execution Date:

- (i) free of cost and for the Term, provide enclosed space measuring at least 30 square meters for the Project SPV to set up its call centre and control room at Cluster level and shall execute all necessary documents to make such space available;
- (ii) deposit in the Escrow Account 30% of the capital subsidy amount (computed based on the capital expenditure from the bid of the selected bidder);
- (iii) appoint and notify the other Parties of the name of the Authority Representative; and

(d) ***[Selected Bidder/]⁸ Project SPV's Conditions Precedent***

⁷ To be deleted if Selected Bidder has incorporated Project SPV prior to execution of the Agreement

The [Selected Bidder/] Project SPV shall satisfy the following Conditions Precedent, if not already satisfied on or before the Execution Date:

- (i) [within 30 Days from the Execution Date, incorporate the Project SPV and undertake all activities and steps, including executing any agreement for novation, required to ensure that the Project SPV assumes all rights, obligations and liabilities of the Selected Bidder in the Agreement, in a manner as if the Agreement was signed by the Project SPV at the first instance;]⁹
- (i) within 60 Days from the Execution Date, execute a shareholders' agreement with the Selected Bidder (**SHA**), substantially in the format provided as a part of the Bid Documents.
- (ii) provide a certified true copy of its constituent documents;
- (iii) provide a certified true copy of a board resolution authorising the execution of this Agreement by the Project SPV[/Selected Bidder];
- (iv) provide certificates from its authorised signatory with details of its shareholding pattern;
- (v) procure and provide confirmations from the Selected Bidder that:
 - (A) it shall at all times comply with the provisions of Clause 16 in respect of their shareholding in the Project SPV; and
 - (B) it is duly organised and validly existing under the laws of the jurisdiction of its incorporation and has requested the Authority to enter into this Agreement with the Project SPV in accordance with the terms set out herein;
- (vi) obtain and provide the Authority with copies of all relevant Applicable Permits required to implement of the Project, other than the permits to be obtained by the ULBs under Clause 2.2(e)(i). If such Applicable Permits are subject to conditions then all such conditions shall have been satisfied in full, unless such conditions are required to be fulfilled by the Authority and ULBs under Clauses 2.2(b) 2.2(c) and 2.2 (e);
- (vii) appoint and notify the other Parties of the name of the Project SPV Representative; and
- [(viii) enter into a legally binding agreement appointing [Third Party Entity/Associate] as the supply contractor for supply and installation of LED

⁸ Applicable if the Selected Bidder chooses to incorporate the Project SPV after signing of the SIOM Agreement.

⁹ Applicable if the Selected Bidder chooses to incorporate the Project SPV after signing of the SIOM Agreement.

Luminaire for the Project. AND a legally binding agreement appointing [Third Party Entity/Associate] as EPC contractor]¹⁰

- [(viii) enter into a legally binding agreement appointing [Third Party Entity/Associate] as the supply contractor for supply and installation of LED Luminaire for the Project. OR a legally binding agreement appointing [Third Party Entity/Associate] as EPC contractor]¹¹
- ix) provide details of Scheduled Bank account to the Authority and the ULBs for payments of Annuity Fee.

If the Selected Bidder chooses to incorporate the Project SPV after signing the Agreement, then the Project SPV shall also be required to submit documents mentioned in Clauses 2.2(d)(ii) to Clauses 2.2(d)(vi).

(e) *ULB's Conditions Precedent*

Each ULB in the Cluster shall satisfy the following Conditions Precedent, if not already satisfied on or before the Execution Date:

- (i) Each ULB to obtain all necessary permits and consents, from the relevant Government Authorities as required to conduct the Joint Survey in accordance with Clause 3 and to grant exclusive rights to the Project SPV in accordance with Clause 4.2.
- (ii) [*insert if required*: appoint a Scheduled Bank as the escrow agent for the Project]; and

[Insert iii and iv in case of applicability of ii]
- (iii) execute the escrow agreement with the escrow agent, inter-alia, on the terms and conditions set out in the form of the escrow agreement at Annex 2
- (iv) All ULB's should collectively deposit in the escrow account the annuity fee for 6 Months of operation of the Project based on Equipment Rate and O&M Fee quoted in the Financial Proposal.
- (v) appoint and notify the other Parties of the name of the ULB representative;

2.3 Consequences of failure to satisfy Conditions Precedent

- (a) If the Project SPV [or the Selected Bidder, as the case may be,] fails to satisfy any of the Conditions Precedent that it is responsible for under Clause 2.2(d) and fails to take necessary actions to fulfil the Conditions Precedent under Clause 2.2(b) within the prescribed time period, unless waived in accordance with Clause 2.3(c), the

¹⁰ Applicable only if the Selected Bidder relied on experience of a Third Party Entity or Associate at the Bid Stage under clause 4.2 (a) or (b).

¹¹ Applicable only if the Selected Bidder relied on experience of a Third Party Entity or Associate at the Bid Stage under clause 4.2 (c).

Authority shall be entitled to terminate this Agreement by issuing 30 Days' notice to the Project SPV [or the Selected Bidder, as the case may be,] and forfeit the Performance Bank Guarantee.

- (b) If the Authority or ULBs fail(s) to satisfy any of the Conditions Precedent that it is responsible for under Clause 2.2(c) and Clause 2.2 (e) and fails to take necessary actions to fulfil the Conditions Precedent under Clause 2.2(b) within the prescribed time period, unless waived by the Project SPV in accordance with Clause 2.3(c), the Project SPV shall be entitled to terminate this Agreement by issuing 30 Days' notice to the Authority. If the Agreement is terminated in accordance with this Clause then the Authority shall return the Performance Bank Guarantee to the Project SPV within 7 Days following the end of such 30 Day period.
- (c) A Party may, in its discretion and subject to Applicable Laws, either waive or extend the time period for the fulfilment of any or all of the Conditions Precedent to be fulfilled by another Party by issuing a notice to the other Parties prior to expiry of the prescribed time period for fulfilment of Conditions Precedent by such other Parties (**CP Waiver Notice**), stating that:
 - (i) the Condition Precedent is being waived; or
 - (ii) the number of Days by which the time period for fulfilment of the Condition Precedent in question is being extended,as the case may be.
- (d) If a Party fails to perform a Condition Precedent within the extended period stated in a CP Waiver Notice, the other Parties shall be entitled to terminate this Agreement forthwith by issuing a notice to such Party.
- (e) Upon termination of this Agreement pursuant to Clause 2.3(b), the Project SPV shall not be entitled to receive any payment or compensation from the Authority under this Agreement or otherwise.

3. PRE-IMPLEMENTATION PERIOD

3.1 Project SCOD

Other than in the event of a Qualifying Change in Law, a Fundamental Change in Law, a Force Majeure Event or an Emergency, which might have the effect of termination or extension, the Project SPV shall achieve the Project COD for the Project, in accordance with Clause 5.5, within four (4) Months of the Effective Date (**Project SCOD**).

3.2 Joint Survey & Equipment Installation Plan

- (a) **Joint Survey Team**
 - (i) A joint survey team specific to each ULB in the Cluster shall be constituted within 15 Days of the Effective Date. The joint survey team shall have 2 members, one each nominated by the Project SPV and the respective ULB

(Joint Survey Team). The Joint Survey Team shall agree on the schedule for the Joint Survey.

- (ii) In the event that the Joint Survey is to be conducted in accordance with Clause 3.2(b) and:
 - (A) the member of the Joint Survey Team nominated by the Project SPV fails to be present to conduct such Joint Survey for 3 consecutive dates, as set out in the Joint Survey schedule, agreed in accordance with Clause 3.2(a)(i), the Authority shall have the right to terminate this Agreement by issuing 30 Days' notice to the Project SPV and forfeit the Performance Bank Guarantee;
 - (B) the member of the Joint Survey Team nominated by the respective ULBs fails to be present to conduct such Joint Survey for 3 consecutive dates, as set out in the Joint Survey schedule, agreed in accordance with Clause 3.2(a)(i), the Project SPV shall have the right to terminate this Agreement by issuing 30 Days' notice to the Authority. If the Agreement is terminated in accordance with this Clause, then the Authority shall return the Performance Bank Guarantee to the Project SPV within 7 Days following the end of such 30 Day period. Upon termination of this Agreement pursuant to this Clause, the Project SPV shall not be entitled to receive any payment or compensation from the Authority under this Agreement or otherwise.
- (iii) If any Dispute arises in relation to any findings or activities during the Joint Survey, the decision of the Authority shall be final and binding on the ULB and the Project SPV.

(b) ***Conducting Joint Survey and to prepare Equipment Installation Plan***

- (i) The Joint Survey Team specific to each ULB in the Cluster shall, within 2 Days of its constitution initiate the Joint Survey in the respective ULB of the Cluster in accordance with the guidelines set out at Schedule 4. The Joint Survey shall include identifying and recording the number of Equipment and other infrastructure in the Project including CCMS associated with the Greenfield Public Street Lighting System, and undertaking all other activities set out in Schedule 4 (**Joint Survey**).
- (ii) The focus of the Joint Survey Team shall be to assess the ULB specific bill of quantities for Equipment for Greenfield Street Lighting System, which shall form the basis for ULB specific Equipment Installation Plan. Based on details gathered through Joint Survey, the ULB and the Project SPV shall jointly prepare the detailed ULB wise Equipment Installation Plan in accordance with Schedule 4. Based on this, Project SPV shall prepare a report, setting out the ULB wise details of the Joint Survey and Equipment Installation Plan, in accordance with Schedule 4 including other infrastructure in the Project including CCMS (**Joint Survey Report**) and shall submit the Joint Survey Report to the Authority and OUIDF, within 10 Days of

completion of the Joint Survey for the group of minimum five ULBs in the Cluster. The Joint Survey Report should also indicate a schedule for installation of the Equipment and shall also set out a ULB wise territorial bifurcation for the implementation of the Project

- (iii) The Authority, within 15 Days of receipt of the Joint Survey Report and Equipment Installation Plan for ULBs in the Cluster, with support from Transaction Advisor, shall approve the findings set out therein, including the recommendation, if any, to remove or add certain Project Street Light Points from the scope of the Project. In the event that the Authority fails to approve the findings in the Joint Survey Report within the prescribed time period, such findings shall be deemed to have been approved and shall be binding on the Parties. In the event that there is a Dispute on the findings in the Joint Survey Report and Equipment Installation Plan, the Authority's decision shall be final and binding on the ULB and the Project SPV.

3.3 Amendment Agreement

Within 5 Days of approval of the Equipment Installation Plan by the Authority in accordance with Clause 3.2(b), the Parties shall execute an amendment agreement to this Agreement, which shall be substantially in the format set out at Annex 1 (**Amendment Agreement**), making the following Annexes a part of this Agreement:

- (a) Joint Survey Report; and
- (b) Equipment Installation Plan.

The Parties shall execute the Amendment Agreement within 5 Days of the approval of the Joint Survey Report and Equipment Installation Plan by the Authority for all ULBs in the Cluster.

3.4 Applicable Permits

The Project SPV shall obtain, keep in force and comply with the requirements of all Applicable Permits relevant to the pre-implementation period, as set out in Clause 3.

The Authority and the respective ULBs shall make best endeavours to assist the Project SPV in obtaining any Applicable Permit from the relevant Government Authority.

4. SCOPE OF PROJECT, GRANT OF EXCLUSIVE RIGHT AND TERM

4.1 Scope of work and services for Project

- (a) The Project shall include designing, supply, implementing, commissioning and operating and maintaining the Project in accordance with the terms of this Agreement. The Project SPV shall install the Equipment for the Greenfield Public Street Lighting System in accordance with the Equipment Installation Plan. Details on the scope of work and services for Project are provided in Schedule 2.
- (b) **Variation in the quantity of works/ supplies for Project**

- i. The Authority estimates of the quantity of works/ supplies to be carried out by the Project SPV specific to Cluster [●] as indicated in Schedule 1 of this Agreement and is subject to variation based on the Joint Survey Report and Equipment Installation Plan approved by Authority with support from Transaction Advisor.
- ii. Project SPV shall be paid only for the actual quantity of works/ supplies as captured in Amendment Agreement in accordance with Clause 3.3 and as per the provisions of this Agreement.
- iii. Once Joint Survey Report and Equipment Installation Plan specific to ULB is approved, Project SPV is not allowed to consider any additional new road stretches forming the scope of work for this Project.

4.2 Grant of Exclusive Right

- (a) On and from the date of execution of the Amendment Agreement and subject to the right of the Authority to terminate this Agreement under Clause 21.8, the ULBs and Authority grants the Project SPV the exclusive right to:
 - (i) procure, design, implement and commission the Project;
 - (ii) access all the new road stretches specific to each ULB in the Cluster forming a physical boundary to be installed with Greenfield Public Street Lighting System along with CCMS and access to space provided by Authority for installation of control centre;
 - (iii) use a public place measuring a maximum of 1.5 square meters and adjacent to switching points in the respective road stretches forming part of the Greenfield Public Street Lighting System to install a feeder panels as part of the Equipment;
 - (iv) operate and maintain the Greenfield Public Street Lighting System;
 - (v) install the Equipment and operate, maintain, replace and manage the Equipment in accordance with this Agreement;
 - (vi) appoint contractors, sub-contractors, agents, advisors and consultants to carry out its obligations under this Agreement in accordance with its terms; and
 - (vii) exercise such other rights as the Authority may determine as being necessary for the purposes incidental and necessary to implement, manage, operate and maintain the Project.
- (b) In the event that the Authority and ULBs fail to fulfil any of its obligations under Clauses 4.2(a), the Project SCOD shall be extended for a period of time equal to the period of time taken by the Authority and ULBs in fulfilling all its obligations under Clauses 4.2(a) and 4.2(b).

4.3 Rights, Title and Interest to Greenfield Public Street Lighting System

- (a) The Project SPV shall, at its own cost and expense, make such improvements to the Greenfield Public Street Lighting System as may be necessary or appropriate to implement the Project in accordance with this Agreement.
- (b) The Project SPV shall not, without the prior written consent of the Authority, use the Greenfield Public Street Lighting System for any purpose other than the purposes of the Project and purposes incidental thereto as permitted under this Agreement or as may be otherwise approved by the Authority.
- (c) The Project SPV shall accept its rights and obligations in relation to the Greenfield Public Street Lighting System and confirm having:
 - (ii) satisfied itself of the nature of the design, work and material necessary for the performance of its obligations under this Agreement; and
 - (iii) obtained for itself all necessary information as to the risks, contingencies and all other circumstances which may influence or affect the Project SPV and its rights and obligations under or pursuant to this Agreement.
- (d) If this Agreement is terminated for any reason prior to the Expiry Date, the exclusive rights and any other rights granted to the Project SPV under this Agreement shall automatically cease with effect from the Termination Date.
- (e) The Project SPV shall make good any damage caused by it or the Project SPV Related Parties to any roads, footpaths, conduits, landscaping and other works on any property adjoining the Greenfield Public Street Lighting System.

Upon occurrence of any loss or damage caused to the Project Street Light Points, the Project SPV shall reinstate the Project Street Light Points at its own cost. In the event that such loss or damage is caused due to acts or omissions not directly attributable to the Project SPV or the Project SPV Related Parties, the Project SPV shall recover the cost incurred in reinstating such Project Street Light Points from the proceeds of the insurances obtained by it in accordance with Clause 18.2. In relation to damages caused by acts of theft and vandalism, should the insurance premium payable by the Project SPV pursuant to Clause 18.2 substantially increase due to a large number of such acts, the Authority shall bear the costs of such increase in insurance premium by refunding such amounts to the Project SPV.

- (f) The Authority shall be responsible for operation and maintenance of Greenfield Public Street Lighting System and other infrastructure specific to the Project including CCMS until the exclusive right in relation to such Project Street Light Points is granted or deemed to be granted to the Project SPV in accordance with Clause 4.2.
- (g) Except as otherwise provided in this Agreement, the Project SPV shall not:
 - i. create any security over any part of the Project;
 - ii. dispose any assets forming part of the Project other than for the purposes of replacement due to normal wear and tear; or

- iii. transfer, assign or novate all of its rights and obligations under this Agreement without the prior written consent of the Authority (such consent not being unreasonably withheld or delayed.)

4.4 Removal of Project Street Light Points by Authority

If the Authority and ULBs remove any Project Street Light Point after the Project COD, then the Project SPV shall be entitled to the Annuity Fee, as the case may be, in accordance with Clause 13.1(b).

4.5 Rights, Title and Interest to Equipment

- (a) The ownership, rights and title to the Equipment, including any leased equipment, installed, located, created, provided or procured by the Project SPV pursuant to this Agreement shall vest with the Project SPV during the entire Term. The Project SPV shall have the right to dispose of any Equipment installed by it for the purposes of normal replacement of such Equipment. The Authority shall have no right or claim on any proceeds received from the Project SPV from such disposal.
- (b) The ownership, rights and title to any part of the Greenfield Public Street Lighting System, other than the Equipment, shall remain with the Authority.

4.6 Term

- (a) Subject to early termination of this Agreement in accordance with its terms, the initial term of this Agreement is 7 years from the Project COD (**Term**), unless extended in accordance with Clause 4.6(b) below.
- (b) No later than 1 year prior to the Transfer Date, the Parties shall meet to determine whether the Term shall be extended and the terms and conditions on which the Agreement shall be extended. Any extension of the Term shall be confirmed in writing.

5. IMPLEMENTATION PERIOD

5.1 Commencement and Duration

The implementation period for the Project shall commence from the date of execution of the Amendment Agreement and shall continue until the Project COD is achieved.

5.2 Applicable Permits

- (a) The Project SPV shall be responsible for obtaining all Applicable Permits for the Project SPV and Project SPV Related Parties to perform their obligations under this Agreement.
- (b) The ULBs shall make best endeavours to assist the Project SPV in obtaining any Applicable Permit from the relevant Government Authority.

- (c) The Project SPV shall comply at all times with the requirements of the Agreement, all Applicable Permits, Applicable Laws in the performance of its obligations under this Agreement and shall ensure, where required, compliance by the Project SPV Related Parties.

5.3 Implementation of Equipment

- (a) The Project SPV shall be responsible to install the Equipment for the Greenfield Public Street Lighting System in accordance with the provisions of the Agreement, Equipment Installation Plan, Applicable Permits, Applicable Laws and Good Industry Practice.
- (b) The Project SPV shall be required to implement the Project in accordance with the Equipment Installation Plan as approved by Authority as per Clause 3.2(b).

5.4 Commissioning Timelines

The Project SPV is required to achieve the Project COD within four (4) months from the Execution Date. The Project SPV shall conduct the activities with the timelines mentioned as under for achieving the Project COD.

Sr. No	Activity	Timeline
1	Joint Survey Report & Equipment Installation Plan preparation for all ULBs	Within 1 month from the Execution Date
2	Approval of Equipment Installation Plan (validated based on randomly chosen samples by Authority)	In parallel with Activity 1 with a maximum duration of one and half months from the Execution Date.
3	Implementation and Commissioning,	In parallel with Activity 2 with a max. duration of four (4) Months from the Execution Date.
4	Asset marking / pole painting and preparation of asset register	Project SPV to undertake the asset marking/ pole painting exercise in accordance with Schedule 4 to complete it within 2 days of Equipment installation. As soon as Equipment installation is complete specific to each feeder panel, the asset register to be prepared within 5 days of Equipment installation. in accordance with Schedule 4 and to submit it to Authority.

- (i). The Project SPV shall seek disbursement of Capital Subsidy by raising Invoice on Monthly basis based on validation of the installation and commissioning of the Equipment and Equipment Commissioning Certificate issued for all the stretches for a ULB in accordance with approved Equipment Installation Plan.
- (ii). The Authority shall ensure the release of advice to Escrow Account within 10 days of receipt of Invoice and Equipment Commissioning Certificate. If the payment advice is not released within the above stipulated date, Project SPV can directly submit such Invoice to Escrow Agent after 15th day of submission of Invoice, for release of payment.

- (iii). In the event that after installation of Equipment, the Commissioning is not possible for reasons attributable to ULB, in such case part payment can be considered on case to case basis by the Authority
- (iv). Provided further that the Capital Subsidy disbursement for the Equipment shall be disbursed by the Authority to the Project SPV on the basis of the actual number of installations and commissioning of the Equipment as carried out on such date and on the basis of the Equipment Rate quoted by the selected bidder in its bid.
- (v). The respective ULB, Authority and the Transaction Advisor shall have the right to inspect the installed Equipment to ensure that the Equipment has been installed in accordance with the approved Equipment Installation Plan.

5.5 Commissioning and issuance of Equipment Commissioning Certificate

- (a) Subject to Clause 5.4 above, once the Equipment are installed, the Project SPV shall require to submit a notice to the respective ULB and get the sign off from the respective ULBs on the installation and commissioning of the Equipment as per the Authority approved Equipment Installation Plan and in accordance with the specification as per Schedule 3 of this Agreement.
- (b) Project SPV to prepare the ULB wise asset register and submit it to the Authority within 5 working days from the date of installation of Equipment specific to each ULB forming a physical boundary and should capture asset details as per format provided in Schedule 4.
- (c) Project SPV need to update and maintain the ULB wise asset register over the Project Term for ease of complaint management and asset verification purpose.
- (d) The Authority, when satisfied, after undertaking verifications and independent validations by Transaction Advisor with reference to submitted asset register, that the Equipment has been installed in accordance with the Equipment Installation Plan, shall, within 3 Days, issue a certificate to the Project SPV, with a copy to the ULB, certifying that the Equipment has been successfully installed (**Equipment Commissioning Certificate**). Issuance of the Equipment Commissioning Certificate shall not be unreasonably withheld or delayed. In the event that the Authority, upon being satisfied that the Equipment has been installed in accordance with the Equipment Installation Plan, fails to issue the Equipment Commissioning Certificate within the time period prescribed above, such Equipment Commissioning Certificate shall be deemed to have been granted. Any Dispute in relation to issuance of the Equipment Commissioning Certificate shall be resolved in accordance with Clause 23.

The procedure laid down in (a), (b) & (d) above shall be followed based on Street Light Points installed / commissioned on monthly basis.

- (e) **Project Street Light Points**
 - (i) With respect to Project Street Light Points, if on or before the date on which the Project SPV submits the notice in accordance with Clause 5.5(a) the Project Street Light Points do not receive electricity supply, the Authority shall have the right to inspect the installed Equipment to ensure that the

Equipment has been installed in accordance with the Equipment Installation Plan and follow the procedure as laid out in Clause 5.5 (b) & Clause 5.5 (d).

(ii) It is clarified that with respect to any Project Street Light Points with no electricity supply made available by the respective ULB, the Project SPV shall not be:

- (A) responsible for providing O&M Services;
- (B) responsible for meeting the key performance indicators, as set out in Schedule 5; or
- (C) liable to pay Performance Liquidated Damages,

until such time that the Project Street Light Points receive regular electricity Supply from the Discom. However, the respective ULBs and Authority shall be liable to make the Annuity Payments, as the case may be, to the Project SPV in respect of such Project Street Light Points.

(f) The date on which the Equipment Commissioning Certificate is issued shall be deemed to be the commercial operations date .

(g) The Annuity Fee shall be payable to the Project SPV, in accordance with Clause 13.1(b).

5.6 Control Room

In addition to installing the Equipment, the Project SPV shall set up a control room with CCMS to monitor and operate the Greenfield Public Street Lighting System in the space provided by the Authority pursuant to Clause 2.2(c)(i). The Project SPV shall set up the control room within thirty (30) Days of execution of the Amendment Agreement. The control room shall be used solely for the purposes of monitoring and operating the Greenfield Public Street Lighting System. The Project SPV shall at its own cost be responsible for upkeep and maintenance of the control room during the Term.

6. O&M ACTIVITIES

6.1 Commencement and Duration

The Project SPV shall commence the O&M Services in respect of the Project from the date of issuance or deemed issuance of the Equipment Commissioning Certificate. The Project SPV shall continue to provide the O&M Services for the Project until the earlier of the Expiry Date or the Termination Date.

6.2 O&M Services

The Project SPV shall provide O&M Services in relation to the Greenfield Public Street Lighting System in accordance with the standards set out at Schedule 5, provisions of the Agreement, Applicable Laws, Applicable Permits and Good Industry Practice.

The Project SPV shall not be liable for its failure to provide O&M Services in relation to the Greenfield Public Street Lighting System in accordance with the standards set out at Schedule

5, during any period for which electricity is not supplied to the Project Street Light Points.

6.3 Complaint Book

The Project SPV shall operate and maintain a website and a toll free number to receive consumer complaints through respective ULB. In addition, a complaint box shall be provided at the ULB office. The Project SPV shall establish a procedure to deal with complaints promptly and effectively, and the ULB/Authority shall review such procedure prior to the Effective Date or following its appointment. The Project SPV shall accept any reasonable suggestion of the ULB/Authority and amend the complaint procedure accordingly.

6.4 Complaint Redressal

(a) The Project SPV shall depute ULB specific O&M personal and shall take all necessary action to address the concerns of the complainant as follows:

- (i) any complaint relating to Project Street Light Point shall be redressed within 48 hours from the time of receipt of the complaint, as evidenced by the records maintained by the Project SPV; and
- (ii) any other complaint relating to the Greenfield Public Street Lighting System shall be redressed by the Project SPV as soon as practically possible.

If a complainant is not satisfied with the action taken by the Project SPV, it may make a representation to the ULB/Authority. The ULB/Authority may upon receiving any such representation, at its sole discretion, direct the Project SPV to take such further reasonable action as may be appropriate for a fair and just redressal of such complaint.

6.5 Lux Level, Illumination Ratio and Power Factor Measurements

The Authority, over the Project Term, shall conduct, Lux level, Illumination ratio and power factor measurements on the Project Street Lighting Points randomly selected by the Authority in its discretion. The Project SPV shall have to participate in the Lux level, Illumination ratio and/or power factor measurements, along with the Authority.

7. INDEPENDENT VALIDATION

7.1 Independent Validation

- (a) The Authority, for the purpose of validation and approval of Joint Survey Report and Equipment Installation Plan for the Cluster and for issuance of Equipment Commissioning Certificate specific to each ULB, get the installation of the Equipment validated from a Transaction Advisor appointed by OUIDF.
- (b) All fees, costs, charges and expenses for appointment of such third party shall be borne by the Authority/OUIDF.

8. REPRESENTATIVES OF THE PARTIES

8.1 Authority Representative

- (a) The Authority Representative shall have the full authority to act on behalf of the Authority for all matters relating to this Agreement.
- (b) The Authority shall have the right to remove the Authority Representative and appoint another Person in its place by giving 10 Days' notice in writing to the other Parties.

8.2 Project SPV Representative

- (a) The Project SPV Representative shall have the full authority to act on behalf of the Project SPV for all matters relating to this Agreement.
- (b) The Project SPV shall have the right to remove the Project SPV Representative and appoint another Person in its place by giving 10 Days' notice in writing to the Authority.

8.3 ULB Representative

- (a) The ULB Representative shall have the full authority to act on behalf of the ULB for all matters relating to this Agreement.
- (b) The ULB shall have the right to remove the ULB Representative and appoint another Person in its place by giving 10 Days' notice in writing to the other Parties

9. REPORTING

9.1 During the Term, the Project SPV shall provide monthly reports to the Authority and the ULBs about the following matters:

- (a) Lamp failure report; and
- (b) Monitoring and verification report.

9.2 If the Project SPV does not issue monthly reports within 3 Days of the end of the relevant Month for any 3 consecutive Months or there is a material information falsely provided in more than 3 reports during the Term, this event shall constitute a Project SPV Event of Default.

9.3 In addition to the reports mentioned in Clause 9.1, the Project SPV shall provide daily reports during the Term. If the Project SPV does not issue daily reports for 5 consecutive Business Days or for more than 10 Days in a Financial Year, this event shall constitute a Project SPV Event of Default.

9.4 The reports to be provided in this Clause 9 shall be substantially in the format set out at Schedule 5.

10. GENERAL RIGHTS, DUTIES AND OBLIGATIONS

In addition to the other obligations of the Parties set out in detail elsewhere in the Agreement, this Clause 10 sets out the key obligations of the Parties.

10.1 General Rights, Duties and Obligations of the Project SPV

- (a) The Project SPV shall during the Term:
 - (i) install the Equipment for the Greenfield Public Street Lighting System along with other infrastructure including CCMS and automation ; and
 - (ii) provide the O&M Services for the Greenfield Public Street Lighting System including CCMS and automation.
- (b) Except as otherwise provided in this Agreement, the Project SPV shall not assign its rights, title or interest in this Agreement in favour of any Person without the prior written consent of the Authority.
- (c) The Project SPV may engage any Person who possesses the requisite skill, expertise and capability to provide the O&M Services, and shall depute ULB specific O&M personnel provided that:
 - (i) the Project SPV shall at all times be solely responsible to perform all its obligations under this Agreement and it shall at all times be solely responsible for non-performance or for any defect, deficiency or delay in providing the O&M Services; and
 - (ii) any contract that it enters with an Associate in respect of the Project shall be on an arm's length basis.
- (d) Environmental and Social Requirements:
 - (i) The Project SPV shall carry out all its obligations under this Agreement in accordance with the provisions of the Agreement, Applicable Laws, Applicable Permits and Good Industry Practice;
 - (ii) The Project SPV agrees to operate the Project with a documented environmental and social management system.
 - (iii) The Project SPV shall ensure that the practices employed to replace, collect and transport lamps are in accordance with the provisions of the Agreement, Applicable Laws, Applicable Permits and Good Industry Practice.

10.2 General Rights, Duties and Obligations of the Authority

- (a) The Authority shall:
 - (i) disburse the Capital Subsidy in accordance with Clause 13.1(a); and

- (ii) make best endeavours to assist the Project SPV in obtaining any Applicable Permit from the relevant Government Authority.
- (b) Notwithstanding anything to the contrary contained in this Agreement, the Authority may, after giving 60 Day notice to the Project SPV, assign any of its rights and benefits and/or obligations under this Agreement to an assignee who is a Government Authority.
- (c) The Authority shall not during the Term permit any third party to install Equipment or provide O&M Services in relation to the Project.

10.3 General Rights, Duties and Obligations of ULB

- (a) The ULBs agree to provide authorization to the Authority in the form of a legally binding undertaking to have access to their receivables in the event of default by the ULB to make Annuity payments to the Project SPV.
- (b) The ULBs agree that in the event of default in payment of Annuity Fee by either one ULB, few ULBs or all of them, the Authority shall have the right to encash the required amount from the receivables of such ULBs.
- (c) The ULB shall be responsible and make the investments for power supply arrangements till the input of feeder panel, specific to each feeder panel to be installed by Project SPV.

10.4 Common Obligations of the Parties

- (a) The Parties shall perform their respective obligations under this Agreement in accordance with the terms of this Agreement, Applicable Laws and Applicable Permits and Good Industry Practice.
- (b) Any document, including maps, drawings etc., provided by the ULBs/ Authority to the Project SPV shall always remain the property of the ULB/Authority and shall not be used by the Project SPV for any purposes other than for the Project. The documents shall, unless otherwise agreed upon by the ULB/Authority, be returned by the Project SPV to the ULB/ Authority on the Transfer Date.

Any document relating to the Project, whether prepared by the Project SPV or a third party, shall be handed over by the Project SPV to the Authority free of cost on the Transfer Date.

- (c) The Parties shall mutually cooperate with each other in order to achieve the objectives of this Agreement.
- (d) Requirement of transformer & other accessories to make the supply available till input of feeder panel is to be identified by ULB and Project SPV during the joint Survey. Though its responsibility of ULBs, Project SPV may assist and coordinate

with different authority to expedite the supply arrangements.

10.5 Emergencies

- (a) If an Emergency arises during the Term, the Authority may instruct the Project SPV that such measures are undertaken by the Project SPV as necessary and practicable to ensure that the Emergency is dealt with and normal operation of the relevant Greenfield Public Street Lighting System resumes as soon as is reasonably practicable, provided that the Project SPV shall not be obliged to provide any service which it is neither qualified nor competent to provide.
- (b) Any additional costs incurred by the Project SPV, in dealing with an Emergency shall be borne by the Authority upon the Project SPV raising the Payments Statement in accordance with Clause 13.2 which shall include a separate line item headed "Emergency Costs". The invoice shall provide supporting documentary evidence for the cost incurred by the Project SPV. The Project SPV shall not be paid any such cost if the Emergency had been caused due to its own act or omission.
- (c) In the event that the Project SPV undertakes to provide additional or alternative services in case of an Emergency, the Project SPV shall make best efforts to meet the standards set out at Schedule 5 or any other standards pre-agreed with the Authority before providing such services.
- (d) Notwithstanding anything contained in this Agreement, if an Emergency arises during the validity of the Agreement, the Authority shall have the right to enter the Project SPV's control room and call centre and take over operation of the Greenfield Public Street Lighting System until such time the Emergency subsists.

11. EMPLOYEES AND TRAINING

- 11.1 The Authority shall remain the principal employer of the ULB employees working for the lighting department. Such employees may or may not, at the Project SPV's sole discretion, be seconded to the Project SPV for a specific duration and under terms and conditions to be agreed upon between the Authority and the Project SPV. The Project SPV has no obligation under this Agreement to employ directly or indirectly any of the ULB's employees.
- 11.2 Notwithstanding anything contained in Clause 11.1, the Project SPV shall train the employees of the ULB's lighting department to operate, maintain and repair the equipment and systems installed by the Project SPV. Training shall include both classroom and practical instruction. Course materials shall include the Project SPV's supplied operation and maintenance plans and manufacture manuals. This training shall be provided only once during the entire Term and shall be conducted within the first year of the Project COD.
- 11.3 The Project SPV Related Parties shall be under the complete control of the Project SPV and shall not be deemed to be employees of the Authority.

12. PERFORMANCE BANK GUARANTEE

12.1 Performance Bank Guarantee

- (a) The Project SPV shall submit to the Authority a bank guarantee from a Scheduled Bank with a branch in Bhubaneswar, in the form set out at Annex 3, payable at Bhubaneswar, to secure the due performance of the Project SPV's obligations under this Agreement during the Term (**Performance Bank Guarantee**). The charges for providing the Performance Bank Guarantee shall be borne by the Project SPV.

The Performance Bank Guarantee shall be of 10% of the Total Capital Expenditure applicable to the Cluster [●], for a sum equal to INR. [●].

- (b) The Project SPV shall maintain the Performance Bank Guarantee in full force and effect till the Transfer Date.

If the Performance Bank Guarantee is scheduled to expire prior to the Transfer Date, then at least 30 Days prior to the scheduled expiry of the Performance Bank Guarantee, the Project SPV shall arrange for an extension or replacement of the Performance Bank Guarantee. If the Project SPV fails to extend or replace the Performance Bank Guarantee, the Authority shall be entitled to receive the un-drawn amount under the Performance Bank Guarantee. The amount so received shall be treated as a cash-retention and to the extent that there are no outstanding claims thereto, shall be released, without any interest on such amount, upon submission of a new Performance Bank Guarantee acceptable to the Authority or upon the scheduled date of expiration of the Performance Bank Guarantee.

- (c) The Authority shall have the right to draw on the Performance Bank Guarantee and claim the amount guaranteed on demand upon the Project SPV's failure to honour any of its obligations, responsibilities or commitments during the Term in respect of any amount due from the Project SPV to the Authority, including any Delay Liquidated Damages or Performance Liquidated Damages that the Project SPV is liable to pay under this Agreement.
- (d) If the Authority draws on the Performance Bank Guarantee, in part or in full, the Project SPV shall immediately, within 7 Days of such withdrawal, restore the value of the Performance Bank Guarantee to the amount stated in Clause 12.1(a).
- (e) If this Agreement is terminated for any reason other than the occurrence of a Project SPV Event of Default, the Performance Bank Guarantee shall be duly discharged and released to the Project SPV, subject to the Authority's right to receive any accrued amounts from the Project SPV before such termination.

13. PAYMENT AND INVOICING

13.1 Sums to which the Project SPV shall be entitled

- (a) *Capital Subsidy*

- (i) The Authority and the ULBs together¹² agree to provide the Project SPV with a Capital Subsidy equal to an amount that shall reflect 90% of the Total Capital Expenditure in accordance with the provisions of this Clause 13.1 (a).
 - (ii) The Authority and the ULBs shall deposit in the Escrow Account 30% of their respective share of the Capital Subsidy, as a Condition Precedent under Clause 2.2(c)(ii). The remaining 70% of the Capital Subsidy shall be deposited progressively in the Escrow Account by the Authority and the ULBs, depending upon the progress of implementation of the Project.
 - (iii) The Authority shall disburse the Capital Subsidy to the Project SPV in accordance to the provision of Clause 5.4, only after due validation of the installation and commissioning of the Equipment according to the approved Equipment Installation Plan and Equipment Commissioning Certificate is issued to the Project SPV.
 - (iv) A failure by the Authority to release the Capital Subsidy in accordance with the provisions of this Clause 13.1 shall constitute an Authority Event of Default.
- (b) ***Annuity Fee***
- (i) The Annuity Fee of INR. [●]¹³ shall be payable, on a Quarterly basis, to the Project SPV in relation to the Greenfield Public Street Lighting System.
 - (ii) In the event that the Equipment Commissioning Certificate is not issued by the Authority on the last Day of a Month, then the Project SPV shall be entitled to pro-rata Annuity Fee for the Month in which the Equipment Commissioning Certificate is issued.

13.2 Invoicing for Annuity Fee

- (a) Within 3 Business Days of commencement of each Quarter (of three Months), the Project SPV shall submit to the each of the ULBs, for the respective Project Street Light Points, a statement substantially in the format set out at Annex 5 setting out the details of the Annuity Fee for the preceding Quarter, calculated in accordance with Clause 13.1(b), , as evidenced by a consolidated report evidencing adherence by the Project SPV of the performance standards set out at Schedule 5. (**Payment Statement**).
- (b) Within 3 Business Days of receipt of the Payment Statement, the ULBs shall verify it for any apparent error such as mathematical miscalculations. In the event that the

¹² The Capital Subsidy to be provided by the Authority and the ULBs shall comprise of grants received by the Authority from OUIDF and contribution by ULBs from loan provided by OUIDF to the ULBs.

¹³ To be based on the Selected Bidder's Financial Proposal (including Annuity component and O&M component), and the number of Project Street Light Points installed and commissioned by the Project SPV set out in Schedule 1.

ULB notifies any apparent error in writing to the Project SPV within the time specified in this Clause 13.2(b), the Project SPV shall immediately rectify such error and re-issue the Payment Statement by no later than 2 Business Days of receipt of notification of such error from the ULB. The process set out in Clause 13.2(c) shall then apply to any re-issued Payment Statement.

In the event that a ULB does not notify any error within 3 Business Days of receiving the Payment Statement, such Payment Statement shall be deemed to have been accepted by the ULB.

- (c) In the event that the ULB does not discover any error in relation to the Payment Statement, then the ULB shall, within 3 Business Days of receipt of such Payment Statement, make 75% of the Annuity Fee payments to the designated account of the Project SPV.
- (d) Subject to Clause 13.2(e), Authority shall, within 10 Business Days of the date of acceptance of the Payment Statement and upon verifying adherence of the Project SPV to performance standards set out at Schedule 5, to release the remaining 25% of the Annuity Fee to the Project SPV in the designated account.
- (e) In the event that the a ULB wishes to exercise its right to set-off any amounts in accordance with Clause 13.4, it shall communicate exercise of its set-off rights to the Project SPV in writing with a copy to the Authority, giving reasons and relevant details concerning the exercise of such right.
- (f) Except as expressly provided otherwise in this Agreement, the Project SPV shall not levy, collect or recover from Authority any charge or fee or claim any costs, expenses or any other reimbursement, other than the Annuity Fee.

13.3 Default Interest Rate

Upon a failure of a Party to make a payment due and payable by it on the due date for such payment, the defaulting Party, as the case may be, shall be liable to pay default interest on all such outstanding amounts at 12% per annum or part thereof. This is without prejudice to any Party's right to terminate this Agreement in accordance with Clause 21 or any other right or remedy available to it under this Agreement or Applicable Laws.

13.4 Rights of Set-off

- (a) The Project SPV shall not be entitled to retain or set-off any amount due to the Authority, but the Authority may retain or set-off 25% of the Annuity Fee against any amounts due and payable from the Project SPV to the Authority, including Delay Liquidated Damages and Performance Liquidated Damages.
- (b) If the payment or deduction of any amount pursuant to Clause 13.4(a) is disputed, then any undisputed element of that amount shall be paid and the disputed element shall be dealt with in accordance with Clause 23.

13.5 Taxes

- (a) All payments payable by the Authority to the Project SPV under this Agreement, including, the Annuity Fee are inclusive of all Taxes, if applicable. For O&M Fees, applicable GST shall be payable extra at actuals. Any Change in Law on account of the introduction of new Taxes or change in the rates of existing Taxes shall be to the account of and payable by the Authority, as the case may be.
- (b) The Authority shall be entitled to make any deductions at source in accordance with Applicable Laws.
- (c) The Project SPV shall be responsible for all compliance related to the payment of any Taxes payable by it under this Agreement and shall solely be responsible for any proceedings initiated by the relevant Government Authorities, in respect of the non-payment, short-payment, non-compliance, penalty, interest or other such issue, and for all liabilities and expenses related to such proceedings.
- (d) If any proceedings are initiated against the Authority by any relevant Government Authority for failure of the Project SPV to comply with Clause 13.5(c), the Project SPV shall fully indemnify and compensate the Authority, as the case may be, in accordance with Clause 18.
- (e) If any proceedings are initiated against the Project SPV by any relevant Government Authority for failure of Authority to comply with Clause 13.5(a), the Authority shall fully indemnify and compensate the Project SPV in accordance with Clause 18.

13.6 Clean Development Mechanism

The Project SPV shall be entitled to claim clean development mechanism benefits or other forms of similar benefits arising out of the Project. The Authority shall provide all reasonable assistance to the Project SPV in registering the Project as a clean development mechanism activity. 50% of any clean development mechanism benefits arising out of the Project shall be in favour of the Project SPV while 50% shall be received by the Authority.

13.7 All notices, statements and documents, including copies of any bills, required to be provided by a Party pursuant to this Clause 13 shall be provided by it to both of the other Parties.

13.8 Escrow Arrangement (Both for Authority and ULBs)

The Escrow Agreement shall *inter-alia* provide for:

- (a) the appointment of the Escrow Agent for the Term;
- (b) the terms and conditions of the appointment of the Escrow Agent, including the fees to be charged by the Escrow Agent, which shall be borne by the Project SPV;
- (c) the obligation of the Authority/ULB to deposit amounts in accordance with Clause 10.2(a)(i), with the Escrow Agent, as the case may be, simultaneously with the execution of the Escrow Agreement and otherwise in accordance with the terms of this Agreement;

- (d) the release of amounts deposited by the Authority to the Project SPV in accordance with the procedure set out in Clause 13.2; and
- (e) other specific rights and obligations of the parties to the Escrow Agreement, including a mechanism for provision of documents and issuance and receipt of instructions for release of payments.

14. LIQUIDATED DAMAGES

14.1 Delay Liquidated Damages

If the Project SPV fails to achieve the Project COD by the Project SCOD for reasons other than those set out in Clauses 10.5, 17 and 19, it shall pay liquidated damages to the Authority at the rate provided in Schedule 6 (**Delay Liquidated Damages**). If the Project SPV fails to achieve the Project COD within 120 Days of the Project SCOD, the Authority shall have the right to terminate this Agreement under Clause 21.1 and encash the Performance Bank Guarantee.

14.2 Liability for shortfall in O&M Services

Subject to the provisions of this Clause 14.2, in the event that the O&M Services do not meet the standards set out in Schedule 5, then the Project SPV shall pay liquidated damages at the rates provided in Schedule 6 (**Performance Liquidated Damages**).

In the event that the O&M Services fail to comply with the standards set out in Schedule 5 due to inadequacies or shortcoming on the Authority's and respective ULBs part to provide and maintain the power supply till the input of the feeder panels relating to the Greenfield Public Street Lighting System installed by the Project SPV or during the period of no supply of electricity to the Project Street Light Points, the Project SPV shall not be liable to pay any Performance Liquidated Damages till such time the input power supply to feeder panel is made available , restored by the ULB or the supply of electricity to the Project Street Light Points is resumed, as the case may be. In addition, until the Authority restores the input power supply to the feeder panels or supply of electricity to the Project Street Light Points is resumed, the Authority shall continue to make the Annuity Fee for the relevant part of the Greenfield Public Street Lighting System.

Upon becoming aware of any issues with regards to installation of infrastructure relating to a Project Street Light Point; or absence of electricity supply, the Project SPV shall promptly report them to the ULB and Authority. Any Dispute that may arise between the Authority and the Project SPV in relation to the existence of any issues with regards to installation of infrastructure relating to a Project Street Light Points or rectification of such inadequacy or shortcoming or availability of electricity supply shall be referred to and decided by the Authority.

14.3 Payment of Liquidated Damages

Any Delay Liquidated Damages or Performance Liquidated Damages, as the case may be, shall be payable by the Project SPV within 15 Business Days of receipt of a demand notice from the Authority. In the event that the Project SPV fails to pay such damages within the

specified period, the Authority shall have the right to recover the amount of such damages either by exercising its right to set-off under Clause 13.4 or by encashing the Performance Bank Guarantee.

This provision shall not prejudice the right of the Authority to terminate this Agreement in accordance with Clause 21.1 or any other right that the Authority may have under the Agreement or Applicable Laws.

14.4 Limitation of Liability

- (a) The aggregate liability of the Project SPV to the Authority under this Agreement in any Financial Year shall not exceed 90% of the Total Capital Expenditure for the Project. The limitation of liability shall not apply to nor be reduced by:
 - (i) payments made by the Project SPV pursuant to its insurance policies;
 - (ii) the Project SPV's liability in case of fraud, fraudulent misrepresentation, wilful misconduct or Wilful Default, gross negligence or corrupt practices; or
 - (iii) the Project SPV's liability in respect of any failure to pay any Project SPV Related Parties.
- (b) Neither the Project SPV nor the Authority shall be liable to each other under this Agreement for any loss of profit, loss of revenue or any other indirect or consequential damages that may be suffered by the other Party.
- (c) Unless this Agreement provides otherwise, no approval, expression of satisfaction, comment, review, payment or certificate whatsoever made or given (or any failure to make or give the same) by the Authority, its representatives or employees under this Agreement, shall relieve the Project SPV of any of its obligations, risks or liabilities under this Agreement.

15. ULB GUARANTEE OBLIGATIONS

- 15.1 ULBs guarantee the due and punctual payment of any undisputed amount directly payable and due to the Project SPV under this Agreement, pertaining to the Annuity Fee but excluding the Capital Subsidy. ULBs guarantee obligation under this Clause 15.1 shall not exceed the amount equivalent to 50% of the aggregate annual Annuity Fee for that Financial Year.
- 15.2 In that event if the ULBs fail to pay any amount mentioned in Clause 15.1 above within the time period specified in this Agreement, the Authority shall immediately on demand make such payment as if it were the principal obligor in respect of the amount.

In relation to the Annuity Fee, the Authority's guarantee obligation shall commence only after: (a) the Project SPV has not recovered the unpaid Annuity Fee from the Escrow Account; and

- (b) the Escrow Account has depleted to an amount equivalent to 3 Month's Annuity Fee, and

In any Financial Year, Authority's guarantee obligations under this Clause 15 shall not exceed the amount equivalent to 50% of the aggregate annual Annuity Fee for that Financial Year.

15.3 In the event that any amount due and payable by the ULB / Authority under this Agreement, excluding the Capital Subsidy, is not paid within the period provided in the Agreement and upon occurrence of events set out at Clause 15.2(a) and Clause 15.2(b), the Project SPV shall issue a notice to ULB, with a copy to the Authority. The notice shall contain details of the Clauses under which payment is due along with the calculations for such payment and, if the amount has been determined by a court order or arbitration, the copy of the award or court order. The Authority shall pay such amount within 30 Business Days of receipt of the notice from the Project SPV.

15.4 Notwithstanding anything contained in this Agreement, the Project SPV shall not be entitled to terminate this Agreement due to any non-payment of any amount due under this Agreement, unless 30 Business Days as referred in Clause 15.3 have expired. This Clause 15.4 shall not apply to the Project SPV's claim for the Termination Compensation.

16. CHANGE IN OWNERSHIP

16.1 Ownership Structure

The Selected Bidder has caused the Project SPV to be incorporated as a special purpose company to implement, operate and maintain the Project in accordance with this Agreement. The shareholding pattern of the Project SPV is as follows:

S. No.	Name of the shareholder	Number of Shares held	Nature of the Shares [Equity/Preference]	Value of the Shares held [in INR.]	Shareholding [in %]

The Project SPV represents and warrants to the Authority that as on the Execution Date, the legal and beneficial ownership of the Project SPV is as represented above and that no arrangements are in place that have or may have or result in any sale, transfer or disposal of any legal, beneficial, equitable or other interest in any or all of the Shares of the Project SPV.

16.2 Shareholding

The Project SPV shall ensure that:

- (a) Until the Project COD, [Selected Bidder/Lead Member] owns, directly or indirectly, [equivalent to 100%- *in case of single entity*/ more than 51%-*in case of Consortium*] of the Share Capital of the Project SPV.
- (b) Provided that the Selected Bidder/Lead Member will not be entitled to dilute their equity shareholding in the Project SPV, at any time until three (3) years post commissioning of the Project and without the prior written consent of the Authority.

- (c) Provided further that other Members shall continue to hold their shareholding in the Project SPV throughout the term of the Agreement.

16.3 Constituent Documents

- (a) The Project SPV shall ensure that its articles of association adequately reflect the provisions of Clause 16.2 and the relevant commitments, obligations and responsibilities of the Selected Bidder.
- (b) In particular, the memorandum and the articles of association of the Project SPV shall, if required, be amended within 3 Months from the Effective Date to reflect the shareholding pattern, provisions relating to the restrictions on change in the shareholding pattern as set out in this Agreement.
- (c) Until the Project COD, any subsequent change in the memorandum or the articles of association which aim to amend the provisions mentioned in Clause 17.3(b) shall require prior written approval of the Authority and the memorandum and the articles of association of the Project SPV shall include a specific provision to this effect.

17. CHANGE IN LAW

17.1 Consequences of Qualifying Change in Law

- (a) If a Qualifying Change in Law occurs or is shortly to occur, then a Party may notify the other Parties expressing its opinion on the likely effects of the Qualifying Change in Law, giving details of its opinion on whether:
 - (i) any change is required to the scope of work to be performed by the Project SPV;
 - (ii) any change is required to the terms of this Agreement to deal with such Qualifying Change in Law;
 - (iii) relief from compliance with any obligations is required, including the obligation of the Project SPV to achieve the Project SCOD, as the case may be, or to comply with the standards set out at Schedule 5 during the implementation of any relevant Qualifying Change in Law;
 - (iv) any increase in costs (other than incurring additional capital expenditure), or any loss of operating cash flow or delay is likely to result from the Qualifying Change in Law; and
 - (v) any capital expenditure is required or no longer required as a result of a Qualifying Change in Law.
- (b) As soon as practicable but no later than 15 Days after receipt of any notice from a Party under Clause 17.1(a) above, the Parties shall discuss and agree the issues referred to therein and any ways in which the Project SPV can mitigate the effect of the Qualifying Change in Law, including:

- (i) providing evidence that the Project SPV has made best endeavours (including, where practicable, the use of competitive quotes) to oblige the Project SPV Related Parties to minimise any increase in costs and maximise any reduction in costs;
 - (ii) demonstrating how any capital expenditure to be incurred or avoided is being measured in a cost effective manner, including showing that when such expenditure is incurred or would have been incurred, foreseeable Changes in Law at that time have been taken into account by the Project SPV;
 - (iii) giving evidence as to how the Qualifying Change in Law has affected prices charged by similar businesses to the Project, including similar businesses in which the Shareholders or their Associates carry on business;
 - (iv) demonstrating to the Authority that the Qualifying Change in Law is the direct cause of the increase in costs and/or loss of revenue or delay and the estimated increase in costs or loss in operating cash flows could not reasonably be expected to be mitigated or recovered by the Project SPV acting in accordance with Good Industry Practice; and
 - (v) demonstrating that any expenditure, which was anticipated to be incurred to replace or maintain assets that have been affected by the Qualifying Change in Law, has been taken into account in the amount stated in its notice presented under Clause 17.1(a).
- (c) If the Parties have complied with Clause 17.1(b) and the Parties agree or it is determined in accordance with Clause 23 that the Project SPV is required to incur additional capital expenditure due to a Qualifying Change in Law that is in excess of INR. [●]¹⁴ (**Threshold Limit**), then the Project SPV shall make best endeavours to obtain funding for such capital expenditure on terms reasonably satisfactory to it. The Authority shall bear interest and associated costs incurred above the Threshold Limit to obtain such funding. The Project SPV shall bear all additional capital expenditure and/or interest and additional costs incurred to obtain any funding to the extent of the Threshold Limit.
- (d) If the Project SPV has made best endeavours to obtain funding for additional capital expenditure, but has been unable to do so within 60 Days of the date on which the agreement or determination occurred, then the Authority shall pay to the Project SPV an amount equal to the capital expenditure on or before the date falling 30 Days after the capital expenditure has been incurred.
- (e) If the Parties have complied with Clause 17.1(b) and the Project SPV suffers any increase in costs (other than an increase in capital expenditure) or loss in operating cash flows or delay as a result of the occurrence of the Qualifying Change in Law, then in the case of increased cost being incurred or reduction in operating cash flows, the Authority shall compensate the Project SPV for such increased cost or reduced

¹⁴ To be calculated as 10% of the Total Capital Expenditure applicable to the Cluster.

operating cash flows, either by way of a lump-sum payment or by enhancement of the Annuity Fee, if applicable, or by any other means that the Parties mutually agree.

- (f) The quantum of relief (whether extension of time or compensation) that the Project SPV shall be entitled to under Clause 17.1(e) shall be as agreed by the Parties or as determined in accordance with Clause 23, provided always that:
 - (i) the Project SPV shall bear any increased cost or loss of operating cash flow to the extent of the Threshold Limit; and
 - (i) the Project SPV shall only be entitled to relief that is reasonable for such Qualifying Change in Law.

17.2 Consequences of Fundamental Change in Law

- (a) If a Fundamental Change in Law occurs or is shortly to occur, then any of the Parties may notify the others expressing its opinion on:
 - (i) the likely effects of such Fundamental Change in Law on the validity and enforceability of this Agreement or on the rights and benefits accruing to the Project SPV; and
 - (ii) the ability of the Parties to re-negotiate the terms of this Agreement to mitigate the effects of such Fundamental Change in Law, while adhering to the original commercial and financial positions of the Parties.
- (b) As soon as practicable after receipt of any notice from a Party under Clause 17.2(a) above, the Parties shall meet as often as it may be necessary to re-negotiate and agree on the amendments (including, where necessary severing the invalid or unenforceable terms) of this Agreement.
- (c) If the Parties are unable to agree on necessary amendments to the terms of this Agreement to give effect to the original commercial and financial positions of the Parties within a period of 90 Days of the date on which a notice is issued under Clause 17.2(a), then any Party shall be entitled to terminate this Agreement by giving 30 Days' notice.
- (d) Upon termination of this Agreement pursuant to Clause 17.2(c) above, the Authority shall pay the Termination Compensation to the Project SPV in accordance with Clause 22.2. All other consequences of termination as set out in Clause 21.6 shall apply.

18. INDEMNITY AND INSURANCE

18.1 Indemnity

- (a) Subject to Clause 18.1(b) below, the Project SPV shall be responsible for, and release and indemnify the Authority and the Authority Related Parties on demand from and against, all liability for:

- (i) death or personal injury;
- (ii) loss of or damage to property;
- (iii) breach of statutory duty; and
- (iv) actions, claims, demands, costs, charges and expenses (including legal expenses),

which may arise out of, or in consequence of, the implementation of this Project and any other performance or non-performance by the Project SPV or any Project SPV Related Party of its obligations under this Agreement.

- (b) The Project SPV shall not be responsible or be obliged to indemnify the Authority for:
 - (i) any of the matters referred to in paragraphs (iii) or (iv) of Clause 18.1(a) above which arises as a direct result of a Person acting on the instructions of the Authority; or
 - (ii) any injury, loss, damage, cost and expense caused by the negligence or Wilful Default of the Authority, the Authority Related Parties or by the breach by any of them of their obligations under this Agreement.
- (c) The Authority, as the case may be, shall indemnify, defend and hold harmless the Project SPV against any and all proceedings, actions, third party claim for loss, damage and expense of whatever kind and nature arising out of any act or omission caused by the negligence or Wilful Default of it and the Authority Related Parties.
- (d) The Authority shall have the right, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted against it in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified under this Agreement and the reasonable costs and expenses thereof shall be subject to the indemnification obligation of the Project SPV.

If, however, the Project SPV acknowledges in writing its obligations to indemnify the Authority in respect of any Loss to the full extent as provided by this Agreement, the Project SPV shall be entitled, at its option, to assume and control the defence of such claim, action, suit or proceeding at its expense and through a counsel of its choice if it gives prompt notice of its intention to do so to the Authority, and reimburses the Authority, as the case may be, for any reasonable costs and expenses incurred by the Authority prior to the assumption by the Project SPV of such defence. No Party shall settle or compromise any such claim, action, suit or proceeding without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, the Authority shall have the right to employ their own counsel and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of the Project SPV, as and when incurred.

- (e) Any indemnity of a Party under any other provisions of this Agreement shall be without limitation to any other indemnity by that Party under any other provision of this Agreement.

18.2 Insurance

The Project SPV shall at all times, as may be applicable, obtain, maintain and renew those insurance covers required in relation to people, Equipment, systems and third party damages in accordance with Applicable Laws, Applicable Permits and Good Industry Practice. In particular, the Project SPV shall maintain an insurance coverage against the risk of damage by fire, theft or otherwise (including vandalism) of Equipment until the title to the Equipment passes on to the Authority on the Transfer Date. In relation to damages caused by acts of theft and vandalism, should the premium payable by the Project SPV pursuant to this Clause 18.2 increase due to a large number of such acts, Authority shall bear the costs of such increase in insurance premium by refunding such amounts to the Project SPV.

19. FORCE MAJEURE

19.1 Force Majeure Event

- (a) A **Force Majeure Event** means any act, event or circumstance or a combination of acts, events or circumstances or the consequence(s) thereof, which:
 - (i) is/are beyond the reasonable control of any Party (the **Affected Party**);
 - (ii) is/are such that the Affected Party has been unable to overcome or prevent despite exercise of due care and diligence;
 - (iii) directly cause the Affected Party to be unable to comply with all or a material part of its obligations under this Agreement; and
 - (iv) is/are not the direct result of a breach by the Affected Party of its obligations under this Agreement.
- (b) A Force Majeure Event means the following events and circumstances to the extent that they satisfy the conditions set out in Clause 19.1(a):
 - (i) ***Non-Political Force Majeure Events***
 - (A) Acts of God including storm, tempest, cyclone, hurricane, tsunami, flood, whirlwind, lightning, earthquake, washout, landslide, soil erosion, volcanic eruption, or extreme adverse weather or environmental conditions or actions of the elements;
 - (B) fire or explosion caused by reasons not attributable to the Project SPV or any of the employees or agents of Project SPV;
 - (C) chemical or radioactive contamination or ionising radiation;
 - (D) loss of or serious accidental damage to the Project, not arising from

the Wilful Default of Project SPV or the Project SPV Related Parties;
or

(E) epidemic or plague.

(ii) ***Political Force Majeure Events***

(A) hostilities (whether declared as war or not), riot, civil disturbance, revolution, rebellion, insurrection, act of terrorism;

(B) invasion, armed conflict, *coup d'état*, act of foreign enemy, blockade, embargo, revolution, insurgency, nuclear blast/explosion, politically motivated sabotage, religious strife or civil commotion;

(C) strikes, lockout, boycotts or other industrial disputes which are not directly attributable to the actions of the Affected Party, but does not include strike or labour unrest that affects the procurement of any Equipment, necessary for the Project SPV to perform any obligation within the time period specified in the Agreement; or

(D) except to the extent that they constitute remedies or sanctions lawfully exercised by the Authority as a result of any breach of any Applicable Laws or the Applicable Permits by the Project SPV, the Project SPV Related Parties or in the case of a national emergency, any action of the Authority whether by positive act, omission or otherwise or other exercise of a sovereign or executive prerogative by the Authority or any Government Authority that results in expropriation, creeping expropriation, nationalisation or compulsory acquisition of any property, revenues, assets or rights (present or future, actual or contingent) of the Project SPV or of the Equity Share Capital held by the Shareholders of the Project SPV, and acts claimed to be justified by executive necessity, pursuant to which or as a result of which the Project SPV or its Shareholders are deprived (wholly or in part) of their direct or indirect rights or entitlements under this Agreement.

(c) Without prejudice to the provisions of Clauses 19.1(a) or 19.1(b) above, any act, event or circumstance primarily affecting any of the Project SPV Related Parties which prevents, impedes or delays the Project SPV in the performance of its obligations, shall constitute a Force Majeure Event hereunder as to the Project SPV as appropriate if and to the extent that it is of a kind or character that, if it had directly affected the Project SPV, would have come within the definition of Force Majeure Event, set out in Clause 19.1(a).

(d) If the Parties are unable to agree in good faith on the occurrence or existence of a Force Majeure Event, such Dispute shall be finally settled in accordance with the Dispute resolution procedure set forth in Clause 23, provided however that the burden of proof as to the occurrence or existence of such Force Majeure Event shall be upon the Party claiming relief and/or excuse on account of such Force Majeure Event.

19.2 Notice of Force Majeure Event

The Affected Party shall give notice to the other Parties in writing of the occurrence of any of the Force Majeure Events (the **FM Notice**), as soon as it arises or as soon as reasonably practicable and in any event within 10 Days after the Affected Party knew of its occurrence, and of the adverse effect it has or is likely to have on the performance of its obligations under this Agreement, the actions being taken in accordance with Clause 19.5 and an estimate of the period of time required to overcome the Force Majeure Event and/or its nature and effects (if it is possible to estimate the same).

If, following the issue of the FM Notice, the Affected Party receives or becomes aware of any further information relating to the Force Majeure Event, it shall submit such further information to the other Party as soon as reasonably practicable.

Any Party claiming to have been affected by a Force Majeure Event shall not be entitled to any relief unless it has complied with all the provisions of this Clause 19.2.

19.3 Performance Excused

The Affected Party, to the extent rendered unable to perform its obligations or part of the obligation thereof under this Agreement as a consequence of the Force Majeure Event, shall be excused from performance of the obligations provided that the period shall not exceed 120 Days for a Non-Political Force Majeure Event and 90 Days for a Political Force Majeure Event from the date of issuance of the FM Notice. For a Non-Political Force Majeure Event, the performance will be excused on a day-to-day basis, unless otherwise agreed between the Parties. .

It is provided however that a Party shall be excused from performance only to the extent reasonably warranted by the Force Majeure Event.

It is further provided that, nothing shall absolve the Affected Party from any payment obligation accrued prior to the occurrence of the underlying Force Majeure Event.

19.4 No Liability for Other Losses

- (a) Save and except as expressly provided in this Clause 19, no Party shall be liable in any manner whatsoever to the other Parties in respect of any Loss relating to or arising out of the occurrence or existence of any Force Majeure Event or the exercise by it of any right pursuant to this Clause 19.
- (b) If a Political Force Majeure Event occurs prior to the Project COD, the Authority shall compensate the Project SPV for any costs directly incurred as a result of such Political Force Majeure Event, after deducting the proceeds of the insurance received.

This obligation to compensate shall continue only for the period that the Political Force Majeure Event subsists, provided that this obligation shall not exceed 90 Days from the date of issuance of the FM Notice.

19.5 Resumption of Performance

During the period that a Force Majeure Event is subsisting, the Affected Party shall in consultation with the other Parties, make all best efforts to limit or mitigate the effects of such Force Majeure Event on the performance of its obligations under this Agreement. The Affected Party shall also make efforts to resume performance of its obligations under this Agreement as soon as possible and upon resumption, shall notify other Parties of the same in writing. The other Parties shall afford all reasonable assistance to the Affected Party in this regard.

19.6 Termination Due to Force Majeure Event

(a) If, prior to the completion of the 120 Day period (or any extended period) commencing from the date of issuance of the FM Notice, the Parties are of the reasonable view that:

- (i) a Non-Political Force Majeure Event is likely to continue beyond such 120 Days period or any extended period agreed in pursuance of Clause 19.3; or
- (ii) that it is uneconomical or impractical to restore the affected Project,

then the Parties may mutually decide to terminate this Agreement, which termination shall take effect from the date on which such decision is taken.

Provided that if it is feasible and practical to restore the Project, the Parties shall equally bear the requisite restoration cost, after applying the insurance proceeds towards restoration.

(b) Without prejudice to the provisions of Clause 19.6(a) above, the Affected Party shall, after the expiry of the period of 120 Days or any other mutually extended period, be entitled to forthwith terminate this Agreement in its sole discretion by issuing a notice to that effect.

Upon termination of this Agreement pursuant to this Clause 19.6(b), the consequences of termination as are set out in Clause 21.6 shall apply.

20. EVENTS OF DEFAULT

20.1 Event of Default means a Project SPV Event of Default or an Authority Event of Default or both, as the case may be.

(a) ***Project SPV Event of Default***

Project SPV Event of Default means any of the following events arising out of any acts or omissions of the Project SPV and which have not occurred as a consequence of any Authority Event of Default, a Qualifying Change in Law, a Fundamental Change in Law, a Force Majeure Event or an Emergency and where the Project SPV has failed to remedy the defects specified in the Preliminary Notice issued in accordance with Clause 21.1(b):

- (i) any Abandonment by the Project SPV;

- (ii) any breach by the Project SPV of its obligations under this Agreement which has a Material Adverse Effect on the ability of the Project SPV to install the Equipment or perform the O&M Services;
- (iii) any representation made or warranty given by the Project SPV under this Agreement including the Declaration of Undertaking being false or misleading;
- (iv) failure of the Project SPV to achieve Project COD within 120 Days of the Project SCOD;
- (v) failure of the Project SPV to issue and maintain a valid Performance Bank Guarantee under Clause 12;
- (vi) failure of the Project SPV to comply with the O&M standards set out in Schedule 5 for a continuous period of 30 Days;
- (vii) a resolution for voluntary winding up passed by the Shareholders;
- (viii) the Project SPV entering into liquidation or similar state or if any order is made for the compulsory winding up or dissolution of the Project SPV or the appointment of a receiver or administrator in respect of the Project SPV, its business and assets or any re-structuring, re-organisation, amalgamation, arrangement or compromise affecting the Project SPV's ability to fulfil its obligations under this Agreement or that otherwise has or may have a Material Adverse Effect; or
- (ix) the Project SPV 's failure to issue monthly reports in accordance with Clause 9.

(b) ***Authority Events of Default***

Authority Event of Default means any of the following events, unless such event has occurred as a consequence of the Project SPV Event of Default, a Qualifying Change in Law, a Fundamental Change in Law, a Non-Political Force Majeure Event or an Emergency and where Authority has failed to remedy the defects specified in the Preliminary Notice issued in accordance with Clause 21.2(b):

- (i) failure of the Authority to pay the Capital Subsidy and more than 180 Days have elapsed since such payments became due;
- (ii) failure of the Authority to fund the Escrow Account in accordance with Clause 13.1 (a)(iii) ;
- (ii) failure to fulfil the obligations set out under Clause 15.1 and Clause 15.2;
- (iii) a failure by the Authority to disburse the Capital Subsidy in accordance with the provisions of Clause 13.1(a);
- (iv) any breach by the Authority of its obligations under this Agreement which

has a Material Adverse Effect on the performance of the Project SPV's obligations under this Agreement; or

- (v) any representation made or warranty given by the Authority under this Agreement which is found to be false or misleading.

21. TERMINATION

21.1 Termination for Project SPV Event of Default

- (a) Without prejudice to any other right or remedy which Authority may have in respect thereof under this Agreement, upon the occurrence of a Project SPV Event of Default, the Authority shall be entitled to terminate this Agreement in the manner provided in Clause 21.1(b).
- (b) The Authority shall issue a Preliminary Notice to the Project SPV providing 45 Days to cure the underlying Project SPV Event of Default. If the Project SPV fails to cure the underlying Project SPV Event of Default within such period allowed, the Authority shall be entitled to terminate this Agreement by issuing a Termination Notice to the Project SPV and to invoke the Performance Bank Guarantee, if subsisting.
- (c) If it is proven that the Project SPV has breached provisions under Clause 1.6 [Corruption and Fraud], the Authority may, notwithstanding the various punishments or other sanctions to which the Project SPV is subject according to the law of the country or any other legal system, terminate this Agreement in writing. The Authority may also terminate this Agreement in writing if the Declaration of Undertaking signed by the Project SPV in accordance with Annexure 7 of this Agreement is untrue.

21.2 Termination for Authority Event of Default

- (a) Without prejudice to any other right or remedy which the Project SPV may have in respect thereof under this Agreement, upon occurrence of an Authority Event of Default, the Project SPV shall be entitled to terminate this Agreement by issuing a Termination Notice to the Authority.
- (b) The Project SPV shall issue a Preliminary Notice to the Authority providing 45 Days to remedy/cure the underlying Authority Event of Default. If, however Authority fails to cure the underlying Authority Event of Default within such period allowed, the Project SPV shall be entitled to terminate this Agreement by issuing a Termination Notice to the Authority.

The Preliminary Notice shall be issued under this Agreement only for the Events of Default for which a cure period has been prescribed in the Agreement.

21.3 Termination Notice

The Termination Notice shall set out the following:

- (a) the underlying Event of Default, in sufficient detail;

- (b) the Termination Date;
- (c) the Termination Compensation as calculated in accordance with Clause 22; and
- (d) any other relevant information.

21.4 Obligation of the Parties

Following issue of the Termination Notice by the Authority or the Project SPV, the Authority or the Project SPV, as the case may be, shall promptly take all such steps as may be necessary or required to ensure that:

- (a) until termination, the Parties shall, to the fullest extent possible, discharge their respective obligations so as to maintain the continued performance of O&M Services, if commenced;
- (b) the Greenfield Public Street Lighting System, along with the Equipment forming the part of Project are handed back to the Authority on the Termination Date in accordance with Clause 21.6; and
- (c) any Termination Compensation is paid to the Project SPV in accordance with Clause 22.

21.5 Withdrawal of Termination Notice

Notwithstanding anything contained in this Agreement, if the Party who has been served with a Termination Notice cures the underlying Event of Default to the satisfaction of the other Party at any time before termination occurs, the Termination Notice shall be withdrawn by the Party which had issued it, provided however that the Party in breach shall compensate the other Party for any direct costs caused by the Event of Default.

21.6 Consequences of Termination

Upon termination of this Agreement, the Authority shall:

- (a) take possession and control of the Greenfield Public Street Lighting System;
- (b) take possession and control of all the Equipment;
- (c) take possession and control of the Project SPV's control room and call centre;
- (d) restrain the Project SPV and any Person claiming through or under the Project SPV from entering the Project SPV's control room and call centre;
- (e) in the event of an Project SPV Event of Default, forfeit the Performance Bank Guarantee; and
- (f) in the event of an Authority Event of Default, return the Performance Bank Guarantee, and pay the Termination Payment compensation .

21.7 Accrued Rights and Liabilities

Notwithstanding anything to the contrary contained in this Agreement, any termination of this Agreement pursuant to its terms shall be without prejudice to accrued rights of any Party, including its right to claim and recover damages and other rights and remedies which it may have in law or contract. All accrued rights and obligations of any of the Parties under this Agreement, including, all rights and obligations with respect to Termination Compensation, shall survive the termination of this Agreement to the extent such survival is necessary for giving effect to such rights and obligations.

21.8 Voluntary Termination

The Authority shall, in addition to any of its other rights to terminate this Agreement, have the right to terminate this Agreement at any time by giving a 60 Day notice to the Project SPV. In such event the Project SPV shall be entitled to the Termination Compensation in accordance with Clause 22.1.

21.9 Authority's Step-In Rights

For the purposes of providing the O&M Services during the cure period applicable to any Project SPV Event of Default, the Authority shall have the right to enter the Project SPV's control room and call centre and take over the of the Greenfield Public Street Lighting System upon giving not less than 12 hours advance notice to the Project SPV (**Authority's Step-In Right**). The Authority may continue to exercise the Authority's Step-In Right until the Project SPV has remedied the Project SPV Event of Default and demonstrated to the reasonable satisfaction of Authority its readiness and ability to resume the provision of the O&M Services in accordance with the terms and conditions of the Agreement.

In exercising the Authority's Step-In Right, the Authority shall: (a) cause the O&M Services to be provided by an adequate number of sufficiently qualified personnel; (b) use commercially reasonable efforts to continue to perform all of the Project SPV's obligations under this Agreement; and (c) have no obligation to pay the Project SPV the Annuity Fee during the period such Authority's Step-In Right is being exercised.

During the exercise of the Authority's Step-In Right, the Project SPV shall: (a) cooperate in all respects with the Authority; and (b) to the extent requested by the Authority, assign its rights capable of being assigned under all Applicable Permits, this Agreement and any other contracts and relevant documents to the Authority during the period that the Authority is exercising the Authority's Step-In Right.

The exercise by the Authority of the Authority's Step-In Right shall not affect any other right or remedy the Authority may have, nor shall the existence of the Authority's Step-In Right or its exercise thereof relieve the Project SPV of any duty, obligation or liability under the Agreement or any other contract.

22. COMPENSATION ON TERMINATION

22.1 For Authority Event of Default or Political Force Majeure Event

In the event that the Termination Compensation is payable by the Authority to the Project SPV upon termination of this Agreement due to an Authority Event of Default or a Political Force Majeure Event, then the Termination Compensation shall be:

- (a) 120% of the Equipment Rate of the Equipment installed up to the Termination Date,
LESS,
- (b) the amount of Capital Subsidy disbursed (if any);
- (c) the amounts, if any, due to the Authority from the Project SPV under the provisions of this Agreement;
- (d) Total Capital Expenditure recovered, as a part of the Annuity Fee paid by the Authority to the Project SPV, if any; and
- (e) the amount realised, if any, from the insurance proceeds, unless utilised for restoration of the installed Equipment.

22.2 For Non- Political Force Majeure Event or Fundamental Change in Law

The Termination Compensation payable by the Authority to the Project SPV upon termination of this Agreement due to a Non-Political Force Majeure Event or Fundamental Change in Law shall be:

- (a) 100% of the Equipment Rate of the Equipment installed up to the Termination Date,
LESS,
- (b) the amount of Capital Subsidy disbursed (if any);
- (c) the amounts, if any, due to the Authority from the Project SPV under the provisions of this Agreement;
- (d) Total Capital Expenditure recovered, as a part of the Annuity Fee paid by the Authority to the Project SPV, if any; and
- (e) the amount realised, if any, from the insurance proceeds, unless utilised for restoration of the installed Equipment.

22.3 For Project SPV Event of Default

Upon termination of this Agreement due to a Project SPV Event of Default anytime during the period between execution of the Amendment Agreement and the Termination Date, the Authority shall:

- (a) have the right to draw upon the entire amount of the Performance Bank Guarantee submitted by the Project SPV; and
- (b) pay the Termination Compensation for an amount equivalent to be:

- (i) 80% of the Equipment Rate of the Equipment installed up to the Termination Date;

LESS,

- (ii) the amount of Capital Subsidy disbursed (if any);
- (iii) the amounts, if any, due to the Authority from the Project SPV under the provisions of this Agreement;
- (iv) Total Capital Expenditure recovered, as a part of the Annuity Fee paid by the Authority to the Project SPV, if any;
- (v) the amount realised, if any, from the insurance proceeds, unless utilised for restoration of the installed Equipment.

22.4 Payment of Termination Compensation

- (a) The Termination Compensation pursuant to this Agreement shall become due and payable to the Project SPV by the Authority within 30 Days of a demand being made by the Project SPV with the necessary particulars duly certified by an independent auditor. The Termination Compensation shall be paid by the Authority only upon transfer of the Project in accordance with Clause 25.
- (b) If for any reasons other than those attributable to the Project SPV, the Authority fails to pay the Termination Compensation on the date due, the Authority shall be liable to pay default interest on the Termination Compensation in accordance with Clause 13.3, payable annually from such due date until the payment thereof.

22.5 Full and Final Settlement

Any Termination Compensation determined pursuant to this Clause 22 shall, once paid, be in full and final settlement of any claim, demand and/or proceedings of the Project SPV against the Authority, in relation to any termination of this Agreement and the Project SPV shall not have any other rights and remedies in respect of such termination.

23. DISPUTE RESOLUTION

23.1 Conciliation

In the event of any dispute, controversy or difference between the Authority and the Project SPV arising out of or relating to this Agreement (including a dispute relating to the validity or existence of this Agreement and any non-contractual obligations arising out of or in connection with this Agreement) (a **Dispute**), the representatives of the Parties shall, within 10 Business Days of service of a written notice from either Party to the other Parties (the **Dispute Notice**) hold a meeting (the **Dispute Meeting**) in an effort to resolve the Dispute in good faith. In the absence of agreement to the contrary, the Dispute Meeting shall be held at the principal office of the Authority.

23.2 Arbitration Procedure

If a Dispute is not resolved within 20 (twenty) Business Days after the service of a Dispute Notice, whether or not a Dispute Meeting has been held, any party to the Dispute shall be entitled to refer the Dispute to arbitration (**Notice of Arbitration**) to be finally resolved in the manner set out in this Clause 23. This Agreement and the rights and obligations of the Parties shall remain in full force and effect pending the award in such arbitration proceeding.

23.3 Appointment of Arbitrators

If a Dispute is referred to arbitration by any Party such Dispute shall be resolved by a sole arbitrator to be appointed by mutual agreement of the Parties. If the Parties fail to appoint an arbitrator within 30 (thirty) Business Days after service of the Notice of Arbitration, such arbitrator shall be appointed in accordance with provisions of the Arbitration Act.

23.4 Venue, Language and Rules of Arbitration

The venue of the arbitration shall be Bhubaneswar and the language of the arbitration shall be English. The arbitration shall be conducted in accordance with the Arbitration Act.

23.5 Award and Apportionment of Costs

The arbitration award of the arbitrator(s) shall be final and binding on the Parties and shall be enforceable in accordance with its terms. The arbitrator(s) shall state reasons for its/their findings in writing. The costs of arbitration and the manner of bearing such costs shall be determined by the arbitrator(s).

23.6 Law Governing the Arbitration

The arbitration shall be governed by the laws of India.

23.7 Survival

The provisions contained in this Clause 23 shall survive the termination of this Agreement.

24. REPRESENTATIONS AND WARRANTIES

24.1 The Project SPV represents and warrants to the Authority that:

- (a) it is duly organised, validly existing and in good standing under the laws of India and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising thereunder including any obligation, liability or responsibility hereunder;
- (b) it has full power and authority to execute, deliver and perform its obligations under this Agreement;
- (c) it has taken all necessary actions to authorise the execution, delivery and performance of this Agreement;

- (d) this Agreement constitutes the legal, valid and binding obligation of the Project SPV, enforceable against it in accordance with the terms hereof;
- (e) there are no actions, suits or proceedings pending or to its best knowledge, threatened against or affecting it before any court, administrative body or arbitral tribunal which might materially and adversely affect its ability to meet or perform any of its obligations under this Agreement;
- (f) it has the financial standing and capacity to undertake the Project in accordance with the terms of this Agreement;
- (g) the execution, delivery and performance of this Agreement does not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its memorandum and the articles of association, charter documents/bye-laws, or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
- (h) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Authority which may result in any Material Adverse Effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;
- (i) it has complied with Applicable Laws in all respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a Material Adverse Effect on its ability to perform its obligations under this Agreement;
- (j) all its rights and interests in the Project shall pass to and vest in the Authority on the Transfer Date, free and clear of all Encumbrances, without any further act or deed on its part or that of Authority, subject to any agreement under which any Encumbrance is retained by any Person, save and except as expressly provided in this Agreement;
- (k) no representation or warranty made by it contained herein or in any other document furnished by it to the Authority including the Bid or to any Government Authority in relation to Applicable Permits contains or shall contain any untrue or misleading statement of material fact or omits or shall omit to state a material fact necessary to make such representation or warranty not misleading;
- (l) no sums, in cash or kind, have been paid or shall be paid, by it or on its behalf, to any Person by way of fees, commission or otherwise for securing the award of this Project or entering into this Agreement or for influencing or attempting to influence any officer or employee of Authority or the Authority Related Parties in connection therewith;
- (m) agrees that the execution, delivery and performance by it of this Agreement and all other agreements, contracts, documents and writings relating to this Agreement constitute private and commercial acts and not public or government acts; and

- (n) consents generally in respect of the enforcement of any judgement against it in any proceedings in any jurisdiction to the giving of any relief or the issue of any process in connection with such proceedings; [and]
- [(o) further representations may be added depending on the specific circumstances of the [Selected Bidder/]¹⁵Project SPV.]

The Project SPV agrees and acknowledges that the representations and warranties set out in this Clause 24.1 shall be repeated and deemed to be made on the date of execution of each Amendment Agreement by the Parties.

24.2 The Authority represents and warrants to the Project SPV that:

- (a) it is duly organised, validly existing and in good standing under the laws of India;
- (b) it has full power and authority to execute, deliver and perform its obligations under this Agreement;
- (c) it has taken all necessary action to authorise the execution, delivery and performance of this Agreement;
- (d) this Agreement constitutes the legal, valid and binding obligation of the Authority, enforceable against it in accordance with the terms hereof; and
- (e) there are no actions, suits or proceedings pending or to its best knowledge, threatened against or affecting it before any court, administrative body or arbitral tribunal which might materially and adversely affect its ability to meet or perform any of its obligations under this Agreement.

The Authority agrees and acknowledges that the representations and warranties set out in this Clause 24.2 shall be repeated and deemed to be made on the date of execution of each Amendment Agreement by the Parties.

24.3 Each of the ULBs represents and warrants to the Project SPV and the Authority that:

- (a) it is duly organised, validly existing and in good standing under the laws of India;
- (b) it has full power and authority to execute, deliver and perform its obligations under this Agreement;
- (c) it has taken all necessary action to authorise the execution, delivery and performance of this Agreement; and
- (d) this Agreement constitutes the legal, valid and binding obligation of ULB, enforceable against it in accordance with the terms hereof; and

¹⁵ Application if Selected Bidder is executing the SIOM Agreement.

- (e) there are no actions, suits or proceedings pending or to its best knowledge, threatened against or affecting it before any court, administrative body or arbitral tribunal which might materially and adversely affect its ability to meet or perform any of its obligations under this Agreement.

Each of the ULBs agrees and acknowledges that the representations and warranties set out in this Clause 24.3 shall be repeated and deemed to be made on the date of execution of each Amendment Agreement by the Parties.

24.4 In the event that any occurrence or circumstance comes to the attention of a Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Parties of the same. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any obligation of a Party under this Agreement.

24.5 Neither the Authority nor any of its agents or employees shall be liable to the Project SPV in contract, tort, including negligence or breach of statutory duty, statute or otherwise as a result of:

- (a) any inaccuracy, omission, unfitness for any purpose or inadequacy of any kind whatsoever in the information relating to the Project disclosed by the Authority to the Project SPV and/or the Selected Bidder; or
- (b) any failure to make available to the Project SPV any materials, documents, plans or other information relating to the Project.

25. TRANSFER

25.1 General Scope of Transfer/Payment

The transactions to be consummated and the formalities to be completed by the Authority and the Project SPV on the Transfer Date are set out in Clauses 25.2 and 25.3.

25.2 Project SPV's Obligations

The Project SPV, at no cost to the Authority, shall:

- (a) hand over peaceful possession of the Greenfield Public Street Lighting System and the Equipment forming the part of Project, along with the control room and the call centre, free of Encumbrances and in a condition which is fit for the purpose;
- (b) transfer all its rights, titles and interests in the assets comprised in the Project and the O&M Services which are required to be transferred to the Authority in accordance with this Agreement and execute such deeds and documents as may be necessary for the purpose and complete all legal or other formalities required in this regard;
- (c) hand over to the Authority all documents including manuals and records relating to the O&M Services;
- (d) transfer technology and up-to-date know-how relating to the O&M Services;

- (e) transfer or cause to be transferred to the Authority any agreements relating to the Project which are (i) valid and subsisting; and (ii) capable of being transferred to the Authority; and (iii) those agreements that Authority has chosen to take over, and cancel or cause to be cancelled such agreements relating to the Project not transferred to the Authority. For this purpose, the Project SPV shall ensure that all agreements relating to the Project are assignable in favour of the Authority without any further action on part of the respective counterparties. The Project SPV shall entirely at its cost, terminate all such agreements relating to the Project which are not transferred/assigned and/or are not required to be transferred/assigned to the Authority;
- (f) transfer to the Authority all such Applicable Permits which the Authority may require and which can be legally transferred;
- (g) remove within 90 Days from expiry of the Term or upon termination of this Agreement, from the Greenfield Public Street Lighting System, any moveable assets that are not taken over by or not to be transferred to the Authority in terms of the provisions of this Agreement;
- (h) ensure that the Project continues to meet the standards set out at Schedule 5 on the Transfer Date; and
- (i) comply with all other requirements as may be prescribed under Applicable Laws to complete the divestment and assignment of all its rights, title and interest in the Project free from all Encumbrance and Taxes payable on or before the Transfer Date.

25.3 Authority's Obligations

Except in the event of expiry of the Project by efflux of time, the Authority shall pay compensation payable to the Project SPV in accordance with Clause 22 to the Project SPV. The Project SPV confirms that upon such payment being made, the Authority shall stand duly discharged of its obligations regarding payment of compensation under this Agreement.

The Project SPV further confirms that payment of compensation by the Authority in accordance with Clause 22 shall be a valid discharge of the Authority's obligation to compensate the Project SPV under this Agreement.

25.4 Vesting Certificate

Upon the Authority and the Project SPV fulfilling their obligations, as set out in Clause 25.2 and Clause 25.3, respectively, the Authority shall issue a certificate in the form set out at Annex 4 (**Vesting Certificate**) which shall have the effect of constituting evidence of divestment of all rights and title of the Project SPV in the Project and their vesting in the Authority. The divestment of all rights and title in the Project shall be deemed to be complete on the date of issue of the Vesting Certificate.

25.5 Divestment Cost

The Project SPV shall bear and pay all costs incidental to divestment of all the rights, title and

interest of the Project SPV in the Project in favour of the Authority on the Transfer Date.

25.6 Risk

Until transfer in accordance with this Clause 25, the Project shall remain at the sole risk of the Project SPV except for any loss or damage caused to or suffered by the Project SPV due to any act or omission or negligence on the part of the Authority under this Agreement.

26. MISCELLANEOUS PROVISIONS

26.1 Survival of Obligations

Any cause or action which may have occurred in favour of a party or any right which is vested in a Party under any of the provisions of this Agreement during the period between the Execution Date and the Transfer Date as a result of any act, omission, deed, matter or thing done or omitted to be done by a Party before the expiry of the Term by efflux of time or otherwise in accordance with the provisions of this Agreement, shall survive the expiry of this Agreement.

26.2 Entire Agreement

The Parties hereto acknowledge, confirm and undertake that this Agreement constitutes the entire understanding between the Parties regarding the Project and supersedes all previous written or oral representations and/or arrangements regarding the Project.

26.3 Clauses to Survive Termination

The provisions of this Agreement, including Clause 21, Clause 22, Clause 23, Clause 24 and Clause 25, to the fullest extent necessary to give effect thereto, survive the term of this Agreement/the termination of this Agreement and the obligations of Parties to be performed/discharged following the termination of this Agreement, shall accordingly be performed/discharged by the Parties.

26.4 Non-exhaustive Remedies

- (a) Save and except as provided in this Agreement, the remedies available to the Parties under this Agreement are not exhaustive and Parties shall be entitled to all other rights and remedies and to take all actions in law and in equity in addition to the remedies provided for herein.
- (b) Save and except as provided in this Agreement, the exercise of any rights by a Party under this Agreement, shall not preclude such Party from availing any other rights or remedies that may be available to it under this Agreement or under any other agreement executed in relation to the Project. All remedies available to the Parties shall be cumulative and the exercise or failure thereof of one or more remedies by any Party shall not limit or preclude the exercise of or constitute a waiver of any other remedies by such Party.

26.5 Notices

- (a) Any notice or request in reference to this Agreement shall be written in English language and shall be sent by registered airmail or facsimile and shall be directed to the other Party at the address mentioned below:

Authority: Attention: [●]
 Address: [●]
 Tel: [●]
 Fax: [●]
 Email: [●]

Name of ULB 1: Attention: [●]
 Address: [●]
 Tel: [●]
 Fax: [●]
 Email: [●]

Name of ULB 2: Attention: [●]
 Address: [●]
 Tel: [●]
 Fax: [●]
 Email: [●]

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. .

Name of ULB n: Attention: [●]
 Address: [●]
 Tel: [●]
 Fax: [●]
 Email: [●]

Project SPV: Attention: [●]
 Address: [●]
 Tel: [●]
 Fax: [●]
 Email: [●]

- (b) Any notice or demand served by registered airmail shall be deemed to be duly served 48 hours after posting and a notice or demand sent by facsimile shall be deemed to have been served at the time of its transmission and in proving service of the same it shall be sufficient to prove, in the case of a letter, that such letter was sent by registered airmail, addressed and placed in the post and in the case of a facsimile transmission, that such facsimile was duly transmitted to a current facsimile number of the addressee at the address referred above.
- (c) Each Party may change the above address by prior written notice to the other Parties.

26.6 Governing Law and Jurisdiction

This Agreement shall be governed by the laws of India and subject to the exclusive jurisdiction of the courts at Bhubaneswar.

26.7 Counterparts

This Agreement shall be executed in 3 counterparts, each of which, when executed and delivered, shall be an original, and all three counterparts together shall constitute one and the same instrument.

26.8 Language

- (a) The formal text of this Agreement and any other agreement executed in relation to the Project shall be in the English language.
- (b) All notices and communications between the Authority, the Project SPV and ULBs, required under this Agreement shall be in English.

26.9 Confidentiality

- (a) No receiving Party shall, without the prior written consent of the disclosing Party, at any time divulge or disclose or suffer or permit its representatives to divulge or disclose to any Person or use for any purpose unconnected with the Project any Confidential Information during the Project Period and for a period of 5 years after the Expiry Date or the Termination Date, as the case may be, except to its representatives officers, directors, advisors, employers, agents, contractors and Associates who have a legitimate need to know the Confidential Information in order to perform their duties relating to this Agreement.
- (b) This Clause 26.9 shall not apply to Confidential Information which:
 - (i) at the time of disclosure or thereafter has become part of public knowledge or literature without a breach of this Agreement;
 - (ii) is already in the possession of the Party receiving such Confidential Information before it was received from any other party and which was not obtained under any obligation of confidentiality from the Party which disclosed such information;
 - (iii) was obtained from a third party, other than one disclosing it on behalf of a Party who was free to divulge the same and who was not under any obligation of confidentiality in relation to such Confidential Information to Party, which disclosed the information;
 - (iv) is required to be disclosed pursuant to any legal and mandatory requirement of any court, legislative or administrative body or any Government Authority, or the rules of any applicable stock exchange;
 - (v) is disclosed by the Project SPV to its Associates or the permitted assignees

and transferees of the same;

- (vi) is disclosed by the Project SPV to a Project SPV Related Party;
- (vii) is disclosed to actual prospective insurers, re-insurers and insurance brokers;
- (viii) is disclosed to any professional advisors or contractors or consultants of any Persons to whom a Party is entitled to disclose Confidential Information under this Clause 26.9;
- (ix) is disclosed to any Person in connection with Clause 26.9;
- (x) is independently developed by the receiving Party without reliance on the Confidential Information disclosed by the disclosing Party; or
- (xi) is disclosed to any Government Authority or any other body in any relevant jurisdiction in connection with the obtaining of renewal of any approval, licence, permit or consent required hereunder or for the Project.

It is clarified that the Party making a disclosure of Confidential Information pursuant to (v) and (viii) (inclusive) above shall ensure that any Person to whom it makes such disclosure undertakes to hold such Confidential Information subject to obligations of confidence equivalent to those set out in this Clause 26.9.

- (c) A Party making a disclosure of Confidential Information pursuant to Clause 26.9(a) shall:
 - (i) at the time of making such disclosure inform its representatives and Associates of their obligation of confidentiality pursuant to this Agreement and ensure their compliance; and
 - (ii) be liable for any breach of such obligations by such representatives and Associates.
- (d) In the event that a Party is required or requested to make a disclosure of Confidential Information referred to in Clause 26.9(b)(v), such Party shall prior to such disclosure to the extent permissible by Applicable Laws use its best efforts to promptly notify the disclosing Party or its Associate so that appropriate protection order and/or other action can be taken if possible. In the absence of such a protection order restricting disclosure, the Party required to make such disclosure may disclose only that portion of the Confidential Information which it is legally required to disclose and shall use best efforts to obtain assurances that confidential treatment shall be accorded to the Confidential Information.
- (e) The receiving Party agrees that it, its Associates and representatives shall, upon request by the disclosing Party promptly:
 - (i) return, and use all best endeavours to ensure that any third party to whom the recipient Party has disclosed the Confidential Information pursuant to this Agreement shall return, all the Confidential Information that is in tangible

form, including, without limitation, Confidential Information contained on computer disks or other electronic storage media or devices, furnished, together with any copies or extracts thereof; and

- (ii) destroy, and use all best endeavours to ensure that any third party to whom the receiving Party has disclosed the Confidential Information pursuant to this Agreement shall destroy, all analyses, compilations, studies or other documents which have been prepared and which reflect or refer to any Confidential Information,

provided that the receiving Party shall be entitled to retain such Confidential Information which forms part of the permanent records of the receiving Party or its Associates and which was prepared for the purposes of the review or decision-making process of the receiving Party or such Associates and/or which the recipient party or its Associates is required to retain by law or the rules of any Government Authority if it continues to keep such Confidential Information confidential in accordance with this Agreement.

26.10 Amendments

- (a) Any provision of this Agreement may be amended, supplemented or modified only by an agreement in writing signed by the Parties.
- (b) A Party may at any time request the other to enter into discussions to review the operation of any part of this Agreement and, but without commitment by a Party, to determine whether it should be amended by mutual agreement provided that, unless there is such mutual agreement, the provisions of this Agreement, as then most recently, if at all, amended, shall continue to apply whatever the outcome of any such discussions or review and whether or not any such discussions or review take place.

26.11 Waivers and Consents

- (a) Any provision or breach of any provision of this Agreement may be waived before or after it occurs only if evidenced by an agreement in writing signed by the Parties.
- (b) Any consent under or pursuant to any provision of this Agreement must also be in writing and given prior to the event, action or omission for which it is sought.
- (c) Any such waiver or consent may be given subject to any conditions thought fit by the Person giving it and shall be effective only in the instance and for the purpose for which it is given.

26.12 Severability

- (a) If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall, in any way, be affected or impaired and the legality, validity and enforceability of the remainder of this Agreement shall not be affected.

- (b) The Parties shall negotiate in good faith with a view to agree on one or more provisions which may be substituted for any such invalid, illegal or unenforceable provision and which are satisfactory to them and produce as nearly as is practicable in all the circumstances the appropriate balance of the commercial interests of the parties.

26.13 Costs and Expenses

Each Party shall be responsible for paying its own costs and expenses incurred in connection with the preparation and execution of this Agreement.

SIGNATURE PAGE

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEAL TO THESE PRESENTS ON THE DAY, MONTH & YEAR FIRST ABOVE WRITTEN IN PRESENCE OF THE FOLLOWING WITNESSES:

SIGNED, SEALED & DELIVERED

FOR AND ON BEHALF OF Authority

(Authorised Signatory)

FOR AND ON BEHALF OF ULB1

(Authorised Signatory)

FOR AND ON BEHALF OF ULB2

(Authorised Signatory)

..
..
..
..

FOR AND ON BEHALF OF ULBn

(Authorised Signatory)

FOR AND ON BEHALF OF [Selected Bidder/]¹⁶Project SPV

(Authorised Signatory)

Witnesses:

¹⁶ Applicable if the Selected Bidder is executing the SIOM Agreement.

1.

2.

SCHEDULE 1 - GREENFIELD STREET LIGHTING SYSTEM UNDER CLUSTER

(ONLY DATA W.R.T. CLUSTER TO BE RETAINED FOR SIGNING)

Proposed Greenfield Public Street Lighting System

The estimated LED Luminaire quantities of different ratings in the stretches proposed for Greenfield Public Street Lighting Systems infrastructure currently proposed under the scope of the Project SPV in the Cluster are as provided below:

The Authority specified quantity of works/ supplies to be carried out by the Project SPV specific to Cluster before/ by the Project SCOD is as indicated in the table below. All these Equipment should be meet the technical specifications in accordance with Schedule 3.

Particulars	Cluster A	Cluster B	Cluster C	Cluster D	Cluster E
LED Luminaires					
LED110 Numbers	70	70	245	35	70
LED90 Numbers	2433	3178	2492	1269	1484
LED70 Numbers	2846	2652	2058	2204	1452
LED45 Numbers	11139	10299	5946	6151	5751
Poles					
P1- 8 meter height Numbers	13493	12122	7703	7795	6897
P2- 9 meter height Numbers	2904	3659	2972	1819	1716
P-SPL Numbers					
Pole junction box					
FRP pole junction box including clamps, bolts, 6 A MCB etc Numbers	16396	15781	10676	9613	8613
Outreach arm					
Single arm bracket Numbers	16305	15361	10611	9568	8470
Double arm bracket Numbers	92	420	65	46	144
Smart Feeder Panels					
3 kW rating Numbers	341	195	170	201	136
5 kW rating Numbers	76	81	49	45	51
7.5 kW rating Numbers	48	69	35	26	27
12 kW rating Numbers	15	17	22	12	9
1.1 kV – 2 core - aluminium conductor , PVC insulated inner sheathed unarmoured cable					
C1 - 2.5 Sq. mm. meter	159811	100872	83965	92440	65570
C2 - 6 Sq. mm. meter	103043	119143	63552	57856	69085
C3 - 10 Sq. mm. meter	85502	121862	59368	47121	48386
C4 - 16 / 25 Sq. mm. meter	40371	37184	56979	34341	22274
Galvanised 'D' iron clamps for holding overhead cables					
Shackle insulator (75 mm X 90 mm) Numbers	16396	15781	10676	9613	8613
Messenger wire for overhead cables					
Aluminum alloy messenger wire of 16 Sq mm meter	388728	379061	263864	231758	205314

Particulars		Cluster A	Cluster B	Cluster C	Cluster D	Cluster E
Earthing						
Electrodes - 450mm× 450mm × 10 mm thick termination CI plate	Numbers	3322	3180	2152	1946	1739
GI strip - of 25 x 5 mm	meter	388728	379061	263864	231758	205314
Miscellaneous - base						
Pole identification marking	Numbers	16396	15781	10676	9613	8613
Hydraulic lift	Numbers	2	2	2	2	2
Miscellaneous - automation						
Cluster level data centre (computer & web server)	LumSum	1	1	1	1	1
software-asset management + predictive maintenance	LumSum	1	1	1	1	1

The quantity of works/ supplies to be carried out by the Project SPV specific to Cluster specified above, may vary during the Project implementation based on Joint Survey. Project SPV shall be paid for actual quantities of equipment and infrastructure installed and commissioned as per the provisions of this Agreement.

SCHEDULE 2 - SCOPE OF WORK AND SERVICES

The following shall form part of the scope of work of the Project SPV under the Agreement. In the event if any activity/tasks/works (to be done by Project SPV) are found to be part of the main Agreement but not covered under this Schedule, such activity/tasks/works shall be deemed to have been covered under this Schedule. The overall scope of work for Project SPV shall include

1. **Supply and Installation of Greenfield Public Street Lighting System:** supply and installation of greenfield street lighting infrastructure components on new road stretches including but not limited to LED Luminaires, outreach arms, poles, pole junction boxes, feeder panels and street light automation components, supply cables, switchgear, earthing systems, control and protection devices etc. LED Luminaires to be supplied and installed has to ensure that the Lux level for different road groups as mentioned in Schedule 3 are maintained throughout the Term of the Agreement.
2. **Centralized Control & Monitoring System (CCMS):** Project SPV shall set-up and commission CCMS at Cluster level (in the premises provided by Authority) including communication systems for remote connectivity with feeder panels, computer systems, servers, internet connectivity, software systems & tools. Project SPV also to operate and maintain a CCMS to facilitate centralised operations, monitoring, and control of the Greenfield Public Street Lighting System. The CCMS shall be used solely for the purposes of monitoring and operating the Project Greenfield Public Street Lighting System. While control facilitated through CCMS is at feeder panel level the monitoring is at LED Luminaire level to facilitate better proactive complaint management.
3. **Operation & Maintenance of Greenfield Public Lighting System and CCMS system installed:** Project SPV to undertake operation and maintenance of the Greenfield Public Lighting System during the Term and shall be responsible for any Equipment rehabilitation / replacement works required to be performed under the Agreement.
4. **Monitoring & Verification (M&V) of KPIs:** The Project shall generate, review and monitor feeder panel wise availability of LED Luminaires and other key performance indices (KPIs) specific to respective ULBs falling under the Cluster [●], as specified in Schedule 5.

As from the Execution Date and throughout the Term, the Project SPV shall perform the scope of work and services as outlined in Clause 4.1 of the Agreement and in detail carry out the following key activities to meet the objectives.

- A. **Joint Survey Report & Equipment Installation Plan :** Detailed Joint Survey for urban local body (ULB) wise new road stretches with mapping and location marking for greenfield street light infrastructure components and creation and maintenance of asset database during the Term of the Project;

Project SPV jointly with the respective ULB representative shall carry out the Joint Survey in accordance with the Joint Survey guidelines set out at Schedule 4, and in a phased manner dovetailing with installation sequence/timelines of the street lighting systems to ascertain the following

- i. undertaking detailed survey and creation of detailed Joint Survey Report to capture ULB wise details for new road stretches with name and length of road stretches, start and end point for new road stretch with GPS coordinates, possible pole arrangements, pole span, pole height & number of poles with individual pole location along with GPS coordinates of poles to be installed, type of outreach arms (single arm

/double arm), prospective LED Luminaire rating along with road type as per IS 1944 in consultation with respective ULB, number and rating of feeder panels with prospective location for installation feeder panels;

- ii. based on Joint Survey Report above, the Project SPV to create a detailed Equipment Installation Plan including proposals for number and rating of feeder panels on given road stretch, rating length for overhead supply cable, messenger wire and earthing strip length, number of poles with pole arrangement type, proposed LED Luminaire configurations with complete detailing up to feeder panel and individual pole number with pole specific GPS coordinates, CCMS and automation components ; and
- iii. Based on above tasks i & ii, Project SPV to notify the Authority and respective ULB to make the supply arrangements till the input of feeder panel by respective ULB specific to each feeder panel.

The Joint Survey report and the Equipment Installation Plan specific to each ULB shall be jointly prepared by the Project SPV and the ULB. The Joint Survey Report and Equipment Installation Plan is to be submitted to Authority and OUIDF, which shall be approved by the Authority based on independent validation by third party appointed by the OUIDF based on random sample check.

As and when requested by the Authority, the Project SPV to provide Authority with sphere spectroradiometry test data in LM 79 report specific to proposed LED Luminaire ratings by Project SPV as part of Equipment Installation Plan and other technical details of greenfield streetlight infrastructure components & LED Luminaires as specified in Schedule 4.

B. Equipment installation

- i. As per Equipment Installation Plan approved by Authority, Project SPV has to supply, install and commission the LED Luminaires, feeder panels and other accessories and street light infrastructure components like poles, pole junction boxes, outreach arms, feeder panels and automation devices, supply cables, earthing electrodes, earthing strips, etc. as part of Project for Greenfield Public Street Lighting System stretches falling under the Cluster [●] as appropriate and to undertaking asset marking/ pole painting exercise;
- ii. **Insurance:** The Goods supplied Project SPV shall be fully insured in Indian Rupees against loss or damage incidental to manufacture or acquisition, transportation, storage, delivery, completion of installation and commissioning as brought out in Equipment Installation Plan. For delivery of goods at site, the insurance shall be obtained by the Project SPV, for an amount not less than the price of the goods from “warehouse to warehouse” (final destinations) on “All Risks” basis including War risks and strikes.
- iii. **Transportation, storage, demurrage/wharfage, Etc.:** Project SPV is required to transport the Goods to respective Cluster specific ULBs and storage of the material till the same are installed at various locations.
- iv. The Project SPV should prepare a detailed asset register capturing the details of each and every component of Greenfield Public Street Lighting System infrastructure specific to each ULB as well as details of CCMS and automation components installed at Cluster [●].

- v. The Authority, based on independent validation, to provide certification for commissioning of Equipment for Greenfield Public Street Lighting System specific to each ULB along with CCMS and automation components installed and to be operated by the Project SPV.
 - vi. The specifications of the LED luminaires and other greenfield street lighting infrastructure components have been provided under Schedule 3 of this Agreement.
- C. Conditions applicable for Serial number A&B above
- i. All the tools and plants, including testing and measuring instruments required for the implementation of the Project is to be arranged by the Project SPV.
 - ii. Project SPV shall carry out marking of poles (pole numbering), in line with the recommended nomenclature by Authority in accordance with Schedule 4.
 - iii. Project SPV shall ensure proper record of the LED Luminaires and greenfield street light infrastructure components installed and duly certified by respective **ULB representatives** on DAILY BASIS. This shall include the pole identification in accordance with Schedule 4 along with LED Luminaire serial number for each of the poles and details of associated feeder panel.
 - iv. Project SPV shall supply and install copper conductor wires supplying LED Luminaires that will run inside the pole & bracket from junction box till LED Luminaire to be supplied and shall carry out minor rectification works wherever necessary for proper and reliable operation of the LED Luminaire, Greenfield Public Street Lighting System and other infrastructure including CCMS.
- D. The Project SPV shall provide to the Authority copies of warranty for LED Luminaires, feeder panels including greenfield street light infrastructure components therein, to be installed in the Project. Such warranty shall necessarily ensure the following:
- a. Warranty shall be applicable for at least seven (7) years from the date of Project COD
 - b. The Project SPV shall replace the aforementioned components, in the event of their failure/non-performance, within forty eight (48) hours
 - c. Such replacement in (a) above shall be done at the sole cost of the Project SPV and shall not have any right to claim for reimbursement from the Authority or ULB.
- E. Operation & Maintenance of Greenfield Public Street Lighting System installed over the Project Term
- i. Establishment of a Centralized Control & Monitoring System (CCMS) for remote operation and monitoring of the entire Cluster population greenfield street lighting points; such CCMS shall also host a call centre facility for logging and tracking resolution of complaints regarding greenfield street lighting;
 - a. A Complaint Management System (web based tool) shall be utilized for complaint management (registration, inspection, planning, resolution and monitoring of complaints. Project SPV shall provide login access to the Authority and ULBs for

registration of the complaints on behalf of citizens and for review of the complaint handling process.

- b. As initial complaint registration is by respective ULB, the Project SPV shall be required to provide the call centre numbers to the respective ULBs in the Cluster.
- c. Identification of faulty/non glowing LED Luminaires through analysis of remote data from feeder panels and/or from complaints lodged by ULB representative and other personnel etc.
- ii. Undertake operations (including daily switching on and switching off), monitoring, and predictive and planned maintenance activities for the Greenfield Public Street Lighting System and other infrastructure including CCMS and automation. .
- iii. Undertake dimming of LED Luminaires, through appropriate remotely operated/ automated systems in accordance with off-peak hours that may be specified by the respective ULB from time to time, as applicable.
- iv. Ensuring that the Greenfield Public Street Lighting System is operated and maintained with adequate control systems and associated IT infrastructure.
- v. Undertaking repair and maintenance activities on the greenfield street lighting systems falling within the scope of the Project:
 - a. Repair/ rectification/ replacement of any defective Equipment and street light infrastructure components to restore LED Luminaire to glowing condition, in accordance with the technical parameters specified in this Agreement, including supply of all materials required for the same. This shall also include all activities involved for the restoration including associated wiring connections upto supply tap-off at feeder panel.
 - b. Project SPV to ensure that all non-glowing LED Luminaires are brought to glowing condition within a period as specified in this Agreement.
 - c. In case of non-availability of incoming power supply, the same should be intimated in writing to the ULB representative within 48 hours of registration of complaint.
- vi. Replacement of LED Luminaires/ greenfield street light infrastructure components in case of theft.

The Project SPV shall ensure the security of its LED Luminaires and greenfield street light infrastructure components and in the event of any theft of the LED Luminaires or the greenfield street light infrastructure components, the Project SPV shall be responsible for arranging a replacement at its own cost and without any reimbursement from the Authority/ULB within minimum possible duration.

- vii. Periodic cleaning of LED Luminaire cover/ glass etc. to minimize reduction in illumination on the account of fouling of cover glass.
- viii. Deployment of qualified/ trained personnel for manning of CCMS and undertaking various other monitoring, inspection, maintenance, repair, replacement, ULB complaints handling related activities to achieve minimum uptime as specified in this Agreement for

street lighting systems covered in the Project, excluding the period of non-availability of power supply.

- ix. Daily, weekly and monthly reporting on citizen complaints registered by respective ULB, operating status, replacement/ repair activities, energy consumption etc. of the Greenfield Public Street Lighting System.
 - x. Deployment of hydraulic crane/s and other tools and equipment. Project SPV to ensure that no work is held up due to non-availability of crane/s, ladder/s, otherwise the Project SPV will be held responsible for such delays.
 - xi. Insurance, during the Project Term against any damage or malfunctioning of LED Luminaires and greenfield street light components along with CCMS accessories on account of lightning strike, explosions, aircraft damage, riot, strike and malicious damage, storm, cyclone, typhoon, tempest, hurricane, tornado, flood and inundation, impact damages, subsidence and landslide including rock slide, bursting and / or overflowing of water tanks, apparatus and pipes, earth quakes, theft or any other causes beyond the control of Authority.
- F. To ensure compliance with all safety standards and fulfil all the statutory obligations in respect of the deputed staff at its own cost during the Term of the Project;
- a. During the period of installation and the Term of this Agreement, the Project SPV shall ensure implementation of measures to ensure safety of working personnel, as per all applicable laws in general and with specific focus on working at heights and working on/ in the vicinity of power supply lines.
 - b. Suitable work instructions/ procedures shall be prepared for each type of work location (height of type of pole/ supply network configuration) and the working personnel shall be trained at regular intervals by certified trainers on safety issues.
 - c. All working personnel shall be provided with appropriate and adequate personal protection and safety equipment such as safety harness for working at heights, safety helmets, earthing rods etc.
 - d. Project SPV shall arrange to carryout safety audit at regular intervals by a competent entity possessing valid certificate on safety issues and recommended remedial measures shall be adopted/ implemented in an expeditious manner.
 - e. The Project SPV shall ensure safety of general citizens/ public in all installations and works carried out by it under the installation and the O&M phase of the Project.
- G. Maintain updated asset register with complete details of all replacements/ changes/ modifications in the LED Luminaires, infrastructure and other associated equipment/ ancillaries.
- H. Ensuring knowledge transfer and training of ULB staff for operation and maintenance of new energy efficiency technologies installed and submit the copies of warranties to Authority before the end of Term of the SIOM Agreement.

- I. Hand over peaceful possession of the fully functional Greenfield Public Street Lighting System and CCMS, along with the control room, free of Encumbrances and in a condition which is fit for the purpose, to the respective ULBs at the end of project tenure.

SCHEDULE 3 - TECHNICAL SPECIFICATIONS

1. Lux levels, illumination ratio & LED Luminaire wattage requirement by Authority for different road groups

The IS 1944 (Parts I and II)-1970 provides code of practice for lighting of public streets and specifies the street categorisation criteria based on traffic density of roads, which is presented in table below,

Road Class	Classification Criteria
Group A	
Group A1	Very important routes with rapid and dense traffic where the only considerations are the safety and speed of the traffic and the comfort of drivers
Group A2	Main Roads with considerable volume of mixed traffic, such as main city streets, arterial roads and thoroughfares.
Group B	
Group B1	Secondary roads with considerable traffic such as main local traffic routes, shopping streets
Group B2	Secondary roads, with light traffic
Group C	Residential and unclassified roads not included in previous groups

a) Requirement on Lux level, illumination ratio and preferred Luminaire type by Authority for Greenfield Public Street Lighting System

In line with road categorisation above, taking in to account considerations of principles of vision, criteria of quality and characteristics of sources and luminaires, the Lux level and illumination ratio requirements by Authority, which need to be adhered to by the Project SPV during the Term of the Agreement are as specified in the table below.

Road Classification	Average level of illumination on Road Surface (Lux level)	illumination ratio - Minimum to average (Uniformity ratio)	Transverse Variation of Illumination (%)	Preferred Luminaire Type
Group A1	30	0.4	33	Cut-Off
Group A2	15	0.4	33	Cut-Off
Group B1	8	0.3	20	Cut-Off Or Semi-Cut-Off
Group B2	4	0.3	20	Cut-Off Or Semi-Cut-Off
Group C	4	0.3	20	-----

As indicated above, for Group A lighting, the level of uniformity of illumination should be as high as possible and glare strictly reduced.

b) Wattage of LED Luminaire to be Installed for different road stretches covered under Project for Greenfield Public Street Lighting System as specified by Authority

The wattages for the proposed LED Luminaires to be installed for different road groups for new road stretches covered under Project for Greenfield Public Street Lighting System should be as specified below and in accordance with Schedule 3 with minimum system efficacy of 120 lumens /watt.

Road Classification	LED Luminaire Rating (Watt)
Group A1	110
Group A2	90
Group B1	70
Group B2	45
Group C	45

The above LED Luminaire rating are in reference to those specified in the LM79 certification for the LED Luminaires proposed to be supplied under the Project.

2. Major Project components & Authority's minimum requirement

a) Major Project components

- I. **Supply and Installation of Greenfield Public Street Lighting System:** supply and installation of greenfield street lighting infrastructure components on new road stretches including but not limited to **LED Luminaires**, outreach arms, poles, pole junction boxes, feeder panels and street light automation components, supply cables, switchgear, earthing systems, control and protection devices etc. LED Luminaires to be supplied and installed has to ensure that the Lux level for different road groups as mentioned in this Schedule are maintained throughout the Term of the Agreement.
- II. **Centralized Control & Monitoring System (CCMS):** Project SPV shall set-up and commission CCMS at Cluster level (in the premises provided by Authority) including communication systems for remote connectivity with feeder panels, computer systems, servers, internet connectivity, software systems & tools. Project SPV also to operate and maintain a CCMS to facilitate centralised operations, monitoring, and control of the Greenfield Public Street Lighting System. The CCMS shall be used solely for the purposes of monitoring and operating the Project Greenfield Public Street Lighting System. While control facilitated through CCMS is at feeder panel level the monitoring is at LED Luminaire level to facilitate better proactive complaint management.
- III. **Operation & Maintenance of Greenfield Public Lighting System and CCMS system installed:** Project SPV to undertake operation and maintenance of the Greenfield Public Lighting System during the Term and shall be responsible for any Equipment rehabilitation / replacement works required to be performed under the Agreement.
- IV. **Monitoring & Verification (M&V) of KPIs:** The Project shall generate, review and monitor feeder panel wise availability of LED Luminaires and other key performance indices (KPIs) specific to respective ULBs falling under the Cluster [●], as specified in Schedule 5.

b) Authority’s minimum requirements

Parameter	Authority’s minimum requirement
Broad level operational Project features	<ul style="list-style-type: none"> • The entire Greenfield Public Street Lighting System has to be smart & intelligent controllable from Cluster level Centralised Control & Monitoring System to be installed and operated by Project SPV. • CCMS along with feeder panel automation should be able to facilitate feeder panel level (group level) control of LED Luminaires installed under Project for Greenfield Public Street Lighting System where as monitoring of LED Luminaire is at individual level facilitated through respective feeder panel automation. • Individual feeder panels supplying LED Luminaires should have the capability to receive the instructions from CCMS and act accordingly. • Greenfield Public Street Lighting System shall have dimming provision at respective feeder panel level and to be monitored and controlled from CCMS. • Greenfield Public Street Lighting System along with CCMS should have flexibility to re-define the dimming hours protocol as modified by respective ULB from time to time specific to individual feeder panel • Authority should be able to see the real time status of the Greenfield Public Street Lighting System on a Cluster map view covering all the ULBs in the Cluster. • The G should be able to communicate the system issues or failures to the CCMS facilitated through feeder panel automation. • Instant Alarm management: Failures to be recorded, identified and localized in real-time. Information should be automatically sent to operators by a mobile telephone call, SMS or mail.
System warranty	<ul style="list-style-type: none"> • Comprehensive on-site warranty for the term of the Project with option to extend beyond that, if Authority desires so.

3. Technical specifications for Greenfield Public Street Lighting System

a) Minimum technical specifications for LED Luminaires

The Project SPV should submit a detail Equipment Installation Plan to Authority with number of LED Luminaires of different ratings specific to each group of road considering the ULB requirements on wattage of LED Luminaires for different road groups as specified in section 1 of this schedule.

Along with Equipment Installation Plan, Project SPV should provide Authority with Sphere Spectroradiometry Test Data in LM 79 report specific to proposed LED luminaire ratings and other technical details of LED Luminaires as specified below.

Parameter	Specification/ type of test	Test methods/ standards
LED packages		

Parameter	Specification/ type of test	Test methods/ standards
LED Sourcing	Identical LED packages, quoted below, are to be used in all LED Luminaires of any given wattage rating (make, order code/part number, operating current and luminous efficacy at operating current).	
Operating current of LED (design)	<ul style="list-style-type: none"> • <70% of rated maximum forward current, in the range of 350 to 1000 mA. (having LM80 approval on this current rating) • Project SPV to mention the details of make and order code/part number of LEDs along with design operating current. 	For Equipment Installation Plan approval, Project SPV should submit LM 80, TM 21 data at that current
Luminous efficacy	<ul style="list-style-type: none"> • ≥ 135 Lumens/watt (at T_j 85° C & at operating current (design)) • Project SPV to specify number of LED Packages which will be provided in each LED Luminaire (to be mentioned for each LED Luminaire rating) along with the wattage and luminous efficacy of LED at operating current. 	LM-80/IS16105 test report including technical data sheet of LED Chip from ILAC/ MRA/ KOLAS/ NVLAP/ EPA international certifying agencies – to be submitted for Equipment Installation Plan Approval
Color rendering index (CRI)	>70	
Lifespan of LEDs & lumen depreciation	> 50,000 Hours (at operating current (design) & lumen depreciation less than 30% over the lifespan of 50,000 hours; (submit L70 & TM 21 Test Report)	
LED Luminaire		
Wattage Rating	110W, 90W, 70W, 45W for different road groups as specified in section 1 of this schedule Project SPV to mention the wattage of LED Luminaires offered for different road groups as Part of Equipment Installation Plan.	
System efficacy (Lumen/ watt)	> 120 Lumens /W	
CRI of LED Luminaire	>70	
Co-related color temperature of the LED Luminaire	Between 5000° K to 5500° K (ANSI)	
Frequency	50 Hz +/- 3%	
Power factor	>0.95	
Light uniformity ratio (E_{min}/E_{avg}),	As per BIS 1944 for given road type as specified in section 1a of this schedule, based on IES File generated by IES: LM 79/ IS 16106 Testing	LM 79/IS 16106-2012 from NABL certified TPL to be provided by Project SPV as part of Equipment Installation Plan.

Parameter	Specification/ type of test	Test methods/ standards
Operating voltage range	140 V to 270V	
LED Luminaire light output	<ul style="list-style-type: none"> Full lumen output should be available at standard voltage of 230 V, Single ϕ 	
Surge Protection	<ul style="list-style-type: none"> Driver internal surge protection of 4 KV (applicability IS 15885, driver safety 16104-1/2) ; IEC61000-4-5 External SPD for each LED Luminaire to be > 20 KV/ 10 KA (as per ANSI C 136.2-2014) 	
Driver efficiency	> 90 %	
Luminaire body temperature rise	<ul style="list-style-type: none"> $\leq 30^{\circ}\text{C}$ from ambient (45°C) with tolerance of 10°C after 24 hours of operation (NABL report to be submitted). Solder point temperature, after 24 hours of continuous operation shall remain stable and within junction temperature. Thermal test reporting as per ANSI/UL 1598-2012 third edition to be provided before start of supplies. 	Test report from TPL NABL accredited lab to be provided along with Equipment Installation Plan
Heat Sink temperature rise above ambient	<ul style="list-style-type: none"> Maximum temperature point on LED array shall not exceed junction temperature (specified in LM 80 report at which life > 50,000 hours) Submit design/ drawing indicating maximum temperature point of LED array. 	
Operating temperature	<ul style="list-style-type: none"> 0°C to $+ 55^{\circ}\text{C}$ 	
Luminaire body	<ul style="list-style-type: none"> Single housing construction made of corrosion free high pressure aluminum die cast conforming to IP 66. Protection safety as per IEC 60598/ IS 10322. 	TPL NABL accredited lab test report as per IS:10322 part 5 Sec-3 /IEC:60598-2-3, to be provided along with Equipment Installation Plan.
Lens/Lens module for LEDs	<ul style="list-style-type: none"> LEDs shall be provided with lenses/lens modules. Lens should be of material resistant to degradation during service, due to atmospheric components, to avoid adverse impact on light output. 	
Cover Frame	<ul style="list-style-type: none"> Polycarbonate cover fixed to the housing by means of stainless steel screws. 	
Earthing of LED Luminaires	The provisions of IS-3043, may be referred to in general and to Clause no. 21.3, 21.4 and 32.5 of the said IS Specifications in particular. Project SPV may	CONFIRM

Parameter	Specification/ type of test	Test methods/ standards
	choose to carry out, at his own cost, earth resistance measurement of neutral conductor of supply network during the initial commissioning phase and subsequently on yearly basis or as may be felt necessary for reliable operation of the LED Luminaires by taking up appropriate measures.	
Impact resistance	LED Luminaire shall be built in such a way that it can withstand wind speeds up to 150 Kmph	NABL lab report for impact resistance > or = IK07

b) Technical specifications for feeder panels

Parameter	Specifications / details
Broad operational features	<ul style="list-style-type: none"> Feeder panels should have GPRS/GSM/ any other appropriate technology based remote streetlight monitoring system with capacity for self-protection from short-circuit, over voltage and anti-theft alert.
	<ul style="list-style-type: none"> Streetlight controller installed in feeder panel should be provided with special emergency on/off facility with wireless control and to generate SMS alerts.
	<ul style="list-style-type: none"> Streetlight controller should be able to communicate with Central Control and Monitoring System (CCMS) in case of power failure and provided with battery backup for minimum 4 hours.
	<ul style="list-style-type: none"> Principle equipment should be designed on the basis of 'Lossless Series Reactance with Secondary Compensation' technology ensuring efficiency of such principle equipment should not be less than 99.4% between 50% - 110% of loading.
	<ul style="list-style-type: none"> Other than basic switching components, no other moving parts are allowed to be installed in the feeder panel.
	<ul style="list-style-type: none"> Provisions to be made to protect the technologies and all components of feeder panels even if quality of power supply at the feeder level is not as per standard of performance and supply code regulations of utility.
	<ul style="list-style-type: none"> All the principle equipment's along with input output switchgears, metering, switches (by-pass and tap changers), contactors, fuses, auto transformer coils etc. should be of reputed manufacturers like Siemens/ABB/Schneider/GE/TAS etc. and should meet best engineering practices and norms as applicable in IS 8623 for LV switchgear and control assemblies, IEC: 60947-1&4 / IS:13947-1&4, IS 8828: 1996 / IEC 60898-2002, IEC 60947-3 standards and other relevant standards.
Rating & switching components	<ul style="list-style-type: none"> Each Feeder Panel is equipped with automatic streetlight controller compatible with GPRS / GSM or suitable protocol at individual panel level. Controller would perform remote meter reading, switching, data logging, communication and control as per remote instructions from CCMS.
	<ul style="list-style-type: none"> Project SPV should consider standard feeder panel ratings of 3 kW, 5 kW, 7.5 kW & 12 kW depending upon the kW load for given road stretch as per Joint Survey Report and maximum length of road stretch that can be supplied from one feeder panel considering the maximum allowed voltage drop in the supply

Parameter	Specifications / details
	<p>cables.</p> <ul style="list-style-type: none"> • The rating of the feeder Panel switchgear should be at least 1.25 times the lighting load estimated for new LED Luminaires based on Joint Survey and to prepare Equipment Installation Plan. • Electrical contactor used in feeder panel should be compliant to IEC: 60947-1&4 / IS:13947-1&4, miniature circuit breaker (MCB) Specification should be compliant to IS 8828: 1996 / IEC 60898-2002 & specifications for 3 position load break switch (rotary type) to be used in on-off-bypass mode should be compliant to IEC 60947-3 standards. • Feeder panels should be provided with appropriate rating of harmonic filters to keep the % I_{THD} at levels below as specified by power distribution utilities. Switched fuse units should be of adequate continuous AC current capacities. Fuses used should be of adequate current rating of high rupturing capacity (S/c current at least 20 kA) • Feeder panels should be equipped with a microprocessor based dual channel almanac timer controller (Astronomical timer based controller) which should be user programmable to enable setting of on /off times and also switching over to savings mode/bypass mode when required. However Project SPV may utilize alternate technology option for remote switching on /off as a group control option along with CCMS. • Power supply voltage of 240 V AC 50 Hz single phase two wire input with feeder panels to be equipped with servo stabiliser of appropriate rating for voltage regulation.
Energy metering	<p>Energy meters to be installed in separately sealable and operable (capable to be opened independently) compartment within the feeder panel as per the following specifications: As per Regulation 56(2) of conditions of supply code, 2004 issued by OERC (Orissa Electricity Regulatory Commission), consumer may procure the meter either from the vendors certified by the discoms conforming to discom's technical specifications. The calibration and sealing of the meter shall be as per the applicable supply code and regulations.</p> <ul style="list-style-type: none"> • Energy meters should be single phase whole current and should have accuracy class of Class 1 or better; • Energy meters to be installed inside the feeder panel in space provided for housing the meters should consider the same • Energy meters should be capable of logging parameters for each 15 minute time block with stamping of date and time. Such data logs should be retained in the energy meters for a period of 60 days or more. These data logs can also be communicated to CCMS through streetlight controller installed in feeder panel. • Metering system should be able to capture minimum following parameters, <ul style="list-style-type: none"> a) Phase voltage (phase to neutral) b) Phase current c) Power factor & frequency d) Total Active Power (kW) e) Total Apparent Power (kVA) f) Metering kWh Cumulative g) Metering kVAh cumulative • Meters should have requisite port (Serial port communication – RS232 or RS485) for enabling remote reading and for connection of modem for the

Parameter	Specifications / details
	<p>same;</p> <ul style="list-style-type: none"> The following additional requirements to be applicable for switching points where the meters installed in the feeder panels shall act as the energy billing meters for utility: <ul style="list-style-type: none"> Energy meter specifications should meet the specifications specified by utility and a sign-off on the same shall be obtained from utility prior to finalizing the specifications A signoff from utility on the design and specifications of the compartment in the feeder panel where the meters are to be housed is also recommended;
Data logging & System alerts	<p>Other than the parameters that are captured and logged by metering system, Project SPV should also ensure that the street light controller system is capable of capture & reporting of following additional parameters for each 15 minute time block with stamping of date and time.</p> <p>a. Number of hours the lamps were glowing b. V_{THD} c. I_{THD}</p> <p>Project SPV to ensure that the streetlight controller in feeder panel should generate alert messages in the form of SMS to select contact numbers (minimum 5) in case of following events</p> <p>a) Phase current on crossing threshold values b) Phase voltages on crossing threshold values c) MCB trips</p> <p>d) Theft alerts e) Group failure of lights f) Contactor failure</p> <p>g) No output supply h) Leakage to ground i) Manual switch activated</p>
Communication Provisions	<ul style="list-style-type: none"> GPRS/GSM modem for communication, should be a Dual-band modem with power consumption less than 3 watts & modem should be programmed to be in sleep-mode whenever communication is not done. If GPRS is used for communication, then in case when GPRS fails, GSM (SMS) should be selected for communication.
Enclosure & Fabrication	<p>Enclosure Box of feeder panels shall be IP-55 compliant and should be fabricated out of MS sheet SWG 16 / 14 duly powder coated for corrosion resistance and long life. Panels should be provide with appropriate provisions for notification against unauthorized door opening.</p> <ul style="list-style-type: none"> It should have single phase power socket for connecting utility tools like drill machine etc. Gland plates for cable entry at incomer and outgoing <p>Design life of the control panel should be mentioned in form of MTBF (mean time between failures) and it should be minimum 15 years.</p>

c) Technical specifications for voltage controller & streetlight Controller

Parameter	Specifications / details
Broad Features	Objective of voltage controller is to optimize the energy consumption of street lights by voltage control dimming during off-peak hours

Parameter	Specifications / details
	<p>Dimming level and dimming times (Off-peak hours) should be remotely settable. Dimming may be carried out either through voltage control or any other suitable mechanism subject to adherence to minimum lux levels and other requirements as specified in the SIOM Agreement. Irrespective of the mechanism, the dimming would need to be in steps (up to 10%, 20% & 30%). Project SPV may however note that a mechanism resulting in non-glowing/switching off of LEDs / an array of LEDs in a LED Luminaire is not permitted for dimming purpose.</p> <p>Should be compatible with harmonic filters installed in feeder panels. And should take in to account Conditions of Supply Code, 2004 issued by OERC.</p> <p>Other than basic switching components, no other moving parts should be there.</p>
<p>Rating and certifications</p>	<p>The rating of Voltage controller should be at least 1.25 times the lighting load as estimated for new LED Luminaires based on Joint Survey.</p> <p>240 V AC 50 Hz single phase two wire input supply with 3 taps to control output voltage. Input supply voltage variation: 150V to 260V. Set output voltage variation should be allowed within +/- 3V during dimming.</p> <p>Intelligent dimming should be there. During off-peak hours, if input voltage itself is below 30% of rated voltage, further voltage reduction should not happen.</p> <p>Standard output voltage taps in a phase at 150/180/210 V AC @ 240 V AC to ensure maximum energy saving during off-peak hours</p> <p>During voltage tap changing, lights should not be momentarily disconnected which will lead to re-ignition of lights. It is mandatory for Project SPV to make gapless changeover arrangement when changing from by-pass mode to lower voltage energy saving mode and interchanging between the taps. Project SPV should produce the Performance assessment certificate for minimum continuous 100 such changeover operations without any LED Luminaire going off at minimum and maximum supply voltage conditions. This certificate should be received from reputed Laboratory organizations like CPRI, ETDC, ERTL, IDEMI, SAMEER etc.</p> <p>Voltage controller to be compatible with a microprocessor based dual channel almanac timer controller in feeder panel to facilitate user defined program for dimming voltage setting for peak and off-peak hours and also switching over to savings mode/bypass mode when required.</p> <p>System losses for entire operating range should be less than 3% so as to achieve high efficiency.</p>
<p>Communication Provisions</p>	<p>User settable selection between GSM / GPRS operation and manual local operation. Control of operation times settings from the central PC (in case of GSM) installed at Cluster level CCMS,</p> <p>Specific data request whenever user desires from control PC installed at Cluster level CCMS.</p> <p>Over-ride for local operation time settings from the central PC on every individual device for user definable time frame with a specific display on the particular device where such override is implemented</p>

Parameter	Specifications / details
Enclosure & Fabrication	Voltage controller to be housed in the same cabinet/enclosure of Feeder panel. Design life should be 15 years or more

Streetlight Controller

All feeder panels to be provided with individual streetlight controller along with voltage controller as per the technical specification described in this document. The dimming time and the dimming level shall be controllable from Central Control & Monitoring System (CCMS) through individual streetlight controller at feeder panel.

d) Technical specifications for poles, cables and other accessories

i. Street light pole (ms), accessories and earthing specifications

Parameter	Specification /Details
Road Classification	AS per IS 1944
Distance between adjacent poles (pole span)	To be decided by Joint Survey Team on case to case basis for new road stretches <ul style="list-style-type: none"> • 20 meters pole span for single side pole arrangement with pole height of 8 meters • 27 meters pole span for single side, double side and median pole arrangement with pole height of 9 meters • 36 meters pole span (between poles on same side) for double side –Zic Zac pole arrangement with pole height of 9 meters
Pole height above ground level	8 meter / 9 meter To be decided by Joint Survey Team on case to case basis for new road stretches
Clearance from road edge	0.6 m
Bracket / outreach arm	Supply and erecting of street light bracket (with pole top mounting arrangements for installation of LED Luminaire) with 40 mm diameter 1.5 m long B grade G.I. pipe along with pole cap of 125 mm diameter and 400 mm long duly welded. Double arm bracket in case of median pole arrangement for all other pole arrangements single arm bracket. Project SPV may choose bracket / outreach arm diameter between 40 mm to 60 mm in line with suitability for installation of LED Luminaire.
Tilt angle	As per design - considering LED specifications
Overhang	As per design - considering LED specifications
Earthing	Earthing to be done on every fifth pole with either of a) Pipe earthing - 4.5 meter long 40 mm diameter with ISI

	<p>mark, B class GI earth pipe electrode with accessories and salt /charcoal. GI pipe electrode shall be cur tapered at the bottom and provided with holes of 12 mm diameter drilled not less than 7.5 cm from each other up to 2 meter of length from bottom. The earth electrode shall be laid in ground after boring as per CPWD specifications.</p> <p>b) Plate earthing – with earth electrode shall be of 450mm×450mm×10mm thick termination CI plate & G.I. strips is of 25 x 5 mm with accessories and salt /charcoal.</p> <p>All the poles are connected with the earth electrodes installed at every fifth pole by supplying and laying 25 mm X 5 mm G.I strip below ground, including connection/ terminating with G.I. nut, bolt, spring, washer, lugs etc. as required. (Jointing shall be done by overlapping and with 2 sets of G.I. nut bolt & spring washer spaced at 50 mm)</p>
Pole junction box/ looping / terminal box	<p>Each pole shall have a weather proof pole junction/looping/terminal box clamped at 450 mm from top of the pole.</p> <p>Project SPV to supply and install FRP pole junction box including clamps, bolts, GI/painting, glands, DIN rail terminals, insulation, locking arrangement and for providing connection to incomer cable and outgoing wire. To be provided with a suitable busbar arrangement to loop 2 to 3 cables of size up to 25 sq.mm, 6A MCB and bi-metallic connectors to be provided in each junction box for supply to LED Luminaires.</p>
D' iron clamps complete with shackle insulator for holding overhead supply cables	<p>Supplying and erection of galvanised 'D' iron clamps to be installed at 500 mm from top of the pole, complete with shackle insulator (100 mm X 110 mm), G.I. bolts, nuts and washers, coach screws etc. as required</p>
Supply provisions to LED Luminaires	<p>1100V grade FR PVC insulated multi-stranded bright annealed copper conductor wires supplying LED Luminaires will Run inside the pole & bracket from Junction box till LED Luminaire to be supplied.</p>

Pole Specifications as Per NIS 1981 – supply & pole erection with 25 mm (base plate)	Outside Diameter (mm)	Thickness (mm)	Length (mm)	
			9 meter pole	8 meter pole
Bottom section	165.1	4.5	4500	4000
Middle section	139.7	3.65	2250	2000
Top section	114.3	3.25	2250	2000

Hot Dip Galvanized MS Poles to be Supplied. A base plate 300 x300x25 mm shall be welded to the bottom of the pole.

Wind speed resistance - The Poles shall be designed and installed so as to withstand the maximum

wind speed of 150 km / hr

All applicable I.S Standards, I.E Codes, Regulations shall govern the design, manufacturing, installation, testing, installation and commissioning of this work. There shall be no circumferential weld joint in Poles. The grade of steel used shall be S-355 as per BSEN-10025 or equivalent Indian Standards .The poles shall be single dip, hot galvanized as per IS: 2629/IS 2633/IS 4759 standards with minimum coating thickness of 70 microns. The pole manufacturing unit shall have in-house pole testing facility for validation of structural design data. The pole testing facility shall conform to BS EN 40-3-2-2000 part 3-2.

A data sheet containing the following is to be submitted :

Pole shaft – name of the manufacturer, applicable standard, material and grade, height, pole section, top dimension (mm), bottom dimension (mm), pole shaft thickness (mm), base plate size and thickness (mm), pitch circle diameter (mm), average galvanisation thickness (micron), hot dip galvanising (single / double dip) , type of paint and utility window dimensions.

ii. Electrical specifications for overhead supply cables

Parameter	Specification /details
Overhead cable size & type	Supplying & erecting of 1.1 kV, twin core, aluminium conductor, PVC insulated, unarmoured, PVC sheathed cable conforming to IS :1554 (part I) along with 16 sq mm aluminium alloy messenger wire for overhead supply arrangements. Project SPV should consider twin core aluminium conductor, PVC insulated , unarmoured, PVC sheathed cable of 2.5 sq mm, 6 sq mm, 10 sq mm, 16 or 25 sq mm size in line with feeder panel rating.
Supply source Point	Supply point will be located centrally across the new road stretch. Electric power supply till input to the feeder panel at 230 volt, single phase, two wire, 50 Hz. to be arranged and provided with required arrangements by respective ULB.
Overall derating factor	Overall derating factor due to cable laying in air / grouping / temperature/ Other factors should not be less than 0.75 (As per IEC 60364-5-52)
Maximum allowed voltage drop for cable	Not more than 5% at the end (at fixture / junction box) at full load condition @ nominal single phase voltage of 230 V
Cable voltage rating and insulation	Electric cable required for the street lighting installation shall be 1100 volt grade, PVC insulated and sheathed, unarmored cable having twin aluminium conductor of stipulated rating.
Cable overhead supply arrangements	<ul style="list-style-type: none"> D' iron clamps complete with shackle insulator for holding overhead supply cables to be installed at 500 mm from top of the pole to hold 16 sq mm aluminium alloy messenger wire to provide support to unarmoured aluminium cable for overhead supply arrangements. With each pole have a weather proof pole junction/looping/terminal box clamped at 450 mm from top

	<p>of the pole, a loop of 0.5 mtr. of cable shall be provided near each street light pole for all incoming and outgoing cable to the pole junction box.</p> <ul style="list-style-type: none"> • Cable shall be terminated to the attached junction box on each Pole. Approved make of cable sockets shall be provided.
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e) Specifications for Central Control and Monitoring System (CCMS) & Automation System

Objective of centralized street light automation solution is to provide centralized control & monitoring of street lights from a single control centre at Cluster and is capable of controlling, monitoring and analysing the details at streetlight feeder Panel level. This will facilitate optimizing the energy costs by timely switching on/off of lamps & implementing voltage regulation/ dimming of LED Luminaires during off-peak hours as well as savings in present street light maintenance cost by setting new standards in managing street lights with minimal expenditure.

Central Control and Monitoring System (CCMS) & automation system is comprised of wireless central automation controller, server cluster, control centre, enterprise middleware system, enterprise management information system and call centre. The broad specifications for various components of CCMS and automation system are as below.

Parameter	Specifications / details
Broad operational features	CCMS shall have a web-server to receive all data from the streetlight controllers installed in feeder panels along with voltage controllers.
	GIS Mapping should be done covering all feeder panels specific to each ULB and the details of each ULB wise feeder panel shall be viewable in the web application software through a Google-map interface or web based digital map.
	Bulk messaging facility specific to each ULB to be given so that any common changes to be effected into the individual streetlight controller equipment's.
	CCMS should have real time control and should register all fault conditions through the instantaneous alert messages sent by the streetlight controller equipment's.
	Inbuilt scalability to support large lighting network. Up to 250 no's of remote terminal units (RTUs) should be possible to be controlled from one central control unit.
	Different ULB authorization should be settable and the central server should be capable of handling high traffic. The Authorised Representatives at the ULBs should have access to the data (viewing rights) on a real time basis as well as the reports.
	User settable individual feeder panel ID & Password protected access to control functions

Parameter		Specifications / details
Key components & functions	Wireless central automation controller	Act as heart of automation and should facilitate remote and auto on/off of street lights, remote dimming level settings (different for different feeder Panels) for street light connected on different feeder panels.
		Reports various parameters to server clusters. These are parameters that are captured by metering system and streetlight controller at individual feeder panels.
		Report faults at individual feeder panels such as fuse failure, power failure, MCB trips, over load, contactor fault, activation of manual switch, ground fault, control cabinet door open, indication for street light failures, feeder panel door open etc.
	Server cluster	This is group of high end server system which allows unlimited redundant data storage using Oracle/MySql / any other database systems
		The data collection server should work on open protocol having mechanism for assured delivery of data sent by hardware device
		Data backup: The system should have automated back-up facility to have regular back up of the data to ensure availability of the data and information. This should be achieved through mirror imaging of two HDDs. The backup system should facilitate any data regarding performance of the system in the last 12 months in 1 working day and any data regarding performance of the system during any period of the concession within 5 working days.
		The central server should be adequately back up by 2 hrs UPS system for operational reliability.
	Control centre	Control center to provide a snapshot of lighting status for a ULB, entire Cluster
		Complete monitoring on image of the entire geographic area at the screen and with projector attachment – on back wall, where the operators monitor the streetlight and dispatch maintenance teams. Any alarms and their exact location should be shown on the map for easy and fast overview.
	Enterprise middleware system	The application software should be based on service oriented architecture and platform independent.
	Enterprise management information system	Complete end to end enterprise software system to facilitate control, monitor and analysis
		Minimum key modules of management information system should be maintenance planning, inventory management, contractor/maintenance, staff performance monitoring, reporting and access Control.

Parameter		Specifications / details
	Call centre	For ULB to report grievances/complaints, bidder shall maintain and provide a number.
		Track the complaints made by the ULBs and to update the status of their complaints
Communication provisions & features		Communication speed between central automation controller (Master) and remote unit (streetlight controller) should be such that maximum time required for acquiring the data should not be more than 30 minutes for 250 no's RTUs.
		CCMS should be able to communicate with any streetlight controller individually or collectively to control and monitor.
		CCMS should support to export reports on website to other application formats like MS Excel, MS Access, DB, SQL, Oracle etc.
		Printout facility available on web pages
Report generation		Reports such as feeder panel failure report, % uptime, etc. should be generated on a daily basis specific to each ULB in the Cluster from the readings received from the individual street light controller equipment.
		Asset management software showing defective units, if any and other user-defined reports should also be available in the CCMS.

f) Standards applicable to street lighting system

National Lighting Codes by Bureau of Indian Standards (BIS) - SP 72 and other International Standards like IEC should be referred for design and development of street lighting calculations, selection of lighting fixtures, lighting technologies, pole structure and erection, cable selection and sizing, insulation requirements, conductor specifications etc. The details of Indian and international standards that are applicable in the context of street lighting project are provided in table below,

Sl.	Standard	Description of Standard	Applicable to / Comment
1	IS 1944: 1970	Code of practice for lighting of public thoroughfares	Classification of road; standard for road lighting
2	CIE – 140 - 2000	CIE: (International Commission on illumination) report	Road lighting calculations
3	CIE 115	CIE: (International Commission on illumination) report	Road lighting calculations
4	IS 10322	IS specification for Luminaires	Light fixtures
5	IS 875	IS for wind loads on buildings and structures	Pole and fixture against wind
6	IS 5	IS for colors for ready mix paints and enamels	Color coating and shade and pole and fixture

Sl.	Standard	Description of Standard	Applicable to / Comment
7	IEC 60598	International standards for Luminaires for road and street lighting	Road and street lighting
8	IEC 60529	International standard for ingress protection	Fixture
9	BSEN 40-1:1992	Lighting columns: definitions and terms	Pole structure and construction
10	BSEN 10025	Steel Standard	Pole structure and construction
11	IS 1367	IS for threaded steel fasteners	Foundation accessories
12	IS 2629 / IS2633 /IS 4759	IS for hot-dip galvanizing for Iron and Steel	Galvanizing process of pole
13	IS 7098 (part 1)	IS for PVC sheathed cables	Cables and insulation
14	IS 8130-1984	Specifications for conductors for insulated cables	Aluminium conductors
15	IS 5831	Specifications for PVC insulation and sheath of electric cables	Inner Sheath of cables
16	IS 3975	Specification for galvanized steel	Armouring of galvanized steel wires
17	IS 5831	IS for mild steel wires , formed wires and tapes for armouring of cables	PVC compound for outer sheath material of cables
18	IS 8623	IS for L.V Switchgear and control assemblies	Enclosure for feeder pillar
19	IEC 60947	IEC for Low voltage switchgear and control gear	Circuit breakers and contactors
20	IEC 6100-3-2	Limits for harmonics current emission – THD<=10%	LED Luminaires
21	IS 16104: 2012	Electronic control gear for LED lamps	
22	IS 16105 : 2012	Method of measurement of lumen maintenance of LED sources	
23	IS 16106 : 2012	Method of electrical and photometric	
24	IS 16107	Luminaires Performance (Part 1 and Part 2)	
25	IS 15885 (Part 2/Sec 13) : 2012	Lamp control gear	
26	IS 16102 : 2012	Performance requirement for self-ballasted LED lamps	

SCHEDULE 4 - JOINT SURVEY, EQUIPMENT INSTALLATION PLAN AND ASSET REGISTER PREPARATION GUIDELINES

The Joint Survey Team shall comprise of authorized personnel from the respective ULB and Project SPV. The respective ULB and the Project SPV shall ensure overall responsibility for undertaking the Joint Survey. Based on this, Project SPV shall prepare a Joint Survey Report, setting out the ULB wise details of the Joint Survey and Equipment Installation Plan, in accordance with this Schedule 4 including other infrastructure in the Project including CCMS. The Authority and OUIDF would get the Joint Survey Report and Equipment Installation Plan cross checked and validated by a third entity (appointed by OUIDF) and shall approve the findings set out therein, including the recommendation, if any, to remove or add certain Project Street Light Points from the scope of the Project including other findings/ details such as classification of different roads into Road Types as per IS1944, pole arrangements, feeder panel ratings etc.

The focus of the Joint Survey Team shall be to assess the bill of quantities which will also form the basis for Equipment Installation Plan. This is also used by Project SPV to prepare and maintain a detailed asset register over the Term of the Project. As soon as Equipments are installed on new road stretch in specific ULB, Project SPV to undertake the asset marking/ pole painting exercise to complete it within 2 days of installation, for ease of physical identification during O&M phase of the Project.

It is suggested that the Joint Survey exercise may be initiated and conducted on a ULB wise basis in order to facilitate commencement of installation works and commissioning of the project on a ward wise basis with the objective of accomplishing the various mandated timelines for various activities.

1. Joint Survey to prepare bill of quantities and Equipment Installation Plan

Based on the Joint Survey exercise to be conducted after initiation of the Project, the Joint Survey Team should capture details for each new road stretch for every greenfield street light point to be installed with street light pole. For each new road stretch, the Joint Survey should capture the particulars of Cluster, district, ULB name and category (as NAC / municipality, municipal corporation), ward number, street/locality name, road width and type as per IS 1944, proposed pole arrangements (whether single side, double side , double side zic-zac & median pole arrangement), proposed pole span, pole height, any special requirements specific to each pole, any nearest location on road stretch for ULB transformer / feeder panel identified by ULB, and site specific remarks.

Based on details gathered through Joint Survey, the Project SPV shall prepare the ULB wise Equipment Installation Plan as well as for entire Cluster with other greenfield street lighting infrastructure inventory like CCMS and automation. The minimum details in Equipment Installation Plan specific to each ULB and further specific to each new road stretch should capture details on number of poles of different height, number of outreach arms, and details of proposed LED Luminaire rating, number of feeder panels for each road stretch and its rating, length of unarmoured PVC sheathed 1.1 kV - 2 core - aluminium conductor cable of different rating / size, number of pole junction box, number of 'D' iron clamps complete with shackle insulator (to support messenger wire), length of aluminum alloy messenger wire, number of earthing electrodes and length of GI strip to connect all the poles to earthing electrodes etc..

Indicative format to capture the details of Joint Survey as well as to prepare Equipment Installation Plan is provided below, this shall be finalized by the Project SPV with Authority prior to the commencement of the Joint Survey. The format to capture the Equipment Installation Plan is indicative and in addition to details capture in the format, Project SPV should also provide the details on CCMS and automation infrastructure and other technical details as requested by Authority.

Based on Joint Survey, the Project SPV jointly with respective ULB shall prepare a Joint Survey Report setting out the details of the Joint Survey and Equipment Commissioning Plan for further validation by the third party appointed by OUIDF. The **Joint Survey Report** and **Equipment Installation Plan** should be submitted specific to each ULB forming a physical boundary and comprised of details in the below formats.

a) Indicative format to capture the details of Joint Survey

A	B	C	D	E	F	G	H	I	J	K	L	M	N
Sl.	Cluster	District	ULB Name	ULB category (municipality / NAC/ municipapl corporation)	Ward no	Road Details							
						Name of road	Road width (meter)	Location start point		Location end point		Road length of new stretch for greenfield street lighting (meter)	Width of road divider (if any) (m)
								Name	GPS Co-ordinates	Name	GPS Co-ordinates		
1													
2													

O	P	Q	R	S	T	U	V	W	X	Y
Road Group Categories - Based on IS 1944 & traffic specific details				Pole parameters				Prospective nearest Location on Road for ULB transformer / Feeder Panel identified by ULB in Consultation with Distribution Utility	Requirement of transformer & other accessories to make the supply available till input of feeder panel- to be implemented by ULB	Other Remarks if Any
A1 Rapid and Dense Motor Vehicle Traffic	A2 Considerable volume of mixed traffic	B1 Local traffic routes, shopping streets	B2/C Residential Area Roads	Proposed pole Arrangem ents	Proposed pole Span (m)	Proposed pole height (m)	Pole Special Requireme nts if any			

b) Indicative format to prepare Equipment Installation Plan to capture ULB specific details (in addition to above details)

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T
Number of Poles		Number of Outraach Arms		Number of LED Luminaires of different ratings (W)				Feeder panel requirement details for given road stretches							Length of unarmoured PVC sheathed 1.1 kV - 2 core - aluminium conductor cable of different rating (meter)				
8 meter poles	9 meter poles	Single arm bracket	Double arm bracket	110 W	90 W	70 W	45 W	kW load estimate for given stretch (kW)	Number of feeder panels	kW load per feeder panel	Number of smart feeder panels of different ratings (kw)				2.5 Sq mm	6 Sq mm	10 Sq mm	16 Sq mm	25 Sq mm
											3 kW	5 kW	7.5 kW	12 kW					

U	V	W	X	Y
Pole junction box (numbers)	Galvanised 'D' iron clamps complete with shackle insulator (numbers)	Aluminum alloy messenger wire of 16 Sq mm to support overhead cables (meter)	Earthing of poles and Feeder panels	
			Number of earthing electrode (One for every 5th Pole)	GI Strip of 25 mm X 5 mm to Earth all poles

2. Asset marking / Pole painting for equipment's installed by Project SPV

The Project SPV shall take up and complete pole marking using nomenclature approved by Authority as soon as greenfield street lighting infrastructure is installed specific to each ULB in a Cluster. Objective of asset marking is to identify the specific pole on particular feeder panel throughout the Project Term for easy of complaint management activities. In view of this, such nomenclature shall capture minimum details such as the Cluster name, ULB name, ward number, feeder panel number & pole number. The coding/ nomenclature for numbering of poles shall clearly indicate the following:

- Cluster and ULB name where greenfield street lighting infrastructure is installed;
- ward number where particular feeder panel is located;
- ULB specific serial number allocated by Project SPV for feeder panel installed;
- street name with GPS co-ordinates for start and end location.
- pole number and pole specific GPS co-ordinates supplied from specific feeder panel;

The following recommended nomenclature (A/“D-” N/AA/“W-” NN/ “FP-” NN / NN) shall be adopted for the purpose of pole marking, with due approvals from Authority if any changes are made:

Cluster	District - serial no for district as allocated by Authority	ULB Name	Ward Number	Serial no for feeder panel as allocated by Project SPV	Pole Number on the feeder panel
A (Alphabetical code comprising one character)	"D-"N	AA (Alphabetical code comprising two characters)	“W-” NN (Numeric Code Comprising two digits)	“FP-”NN ULB specific serial number	NN (Numeric Code Comprising two digits)

Such pole number should be painted or put at a legible point on each street lighting pole at a height of five (4) foot from the ground level with a minimum font size of two inches (2”). The following illustrates the recommended coloring scheme and layout of the pole painting exercise to be carried out.



For the purpose of above nomenclature, the Project SPV should use following serial numbers for districts located in the Cluster (ONLY DATA W.R.T. RESPECTIVE CLUSTER TO BE RETAINED FOR SIGNING)

Cluster E	Cluster D	Cluster B	Cluster A	Cluster C
1. Malkangiri	1. Balangir	1. Angul	1. Cuttack	1. Balasore
2. Koraput	2. Boudh	2. Bargarh	2. Dhenkanal	2. Bhadrak
3. Nabrangpur	3. Nayagarh	3. Deogarh	3. Ganjam	3. Jajpur

4. Raygada	4. Nuapada	4. Jharsuguda	4. Jagatsinghpur	4. Kendrapara
5. Kalahandi	5. Kandhamal	5. Sambalpur	5. Khorda	5. Keonjhar
6. Gajapati	6. Sonepur	6. Sundargarh	6. Puri	6. Mayurbhanj

3. Preparation of asset register to be maintained over the Project Term

For ease of complaint management and asset verification purpose, the Project SPV shall prepare and maintain the ULB wise asset register specific to each feeder panel with detailed inventory within 5 days from s greenfield street lighting infrastructure is installed by the Project SPV in line with the Agreement.

Project SPV will capture details for each and every street light pole along with above nomenclature and the initial details captured during the Joint Survey. The asset register to capture particulars of Cluster, district, ULB name, name of the road and width, feeder panel serial number as allocated by Project SPV for purpose of above nomenclature, energy billing meter or connection number specific to feeder panel if any, feeder panel rating, length and rating of cable supplying from the feeder panel, communication and control equipment's if any, above pole specific nomenclature, GPS co-ordinates of pole, pole height, LED Luminaire rating & numbers installed on particular pole etc. In addition to this asset register would also capture the proposed LED Luminaire make; serial number; date of Installation for particular pole, if earthing electrode installed on specific pole (at appropriate interval) etc.

The detailed asset register to be made available by the Project SPV within 5 working days from the date of installation of all the greenfield street light infrastructure components for all the new road stretches specific to each ULB forming a physical boundary and should be comprised of asset details in the indicative format provided below.

Based on details captured in the asset register for a particular feeder panel, the cumulative kW load would be estimated on the basis of LED Luminaire rating.

a) Indicative format to prepare and maintain asset register by Project SPV

A B C D E F G H I J K L M N O P Q R S T U V

Feeder panel serial number (as allocated by Project SPV)	Cluster	District	ULB Name	Feeder panel specific details		Cable details supplying from specific feeder panel		Road details			Pole specific details connected on feeder panel					Particulars of LED Luminaire installed on pole					Earthing		
				Energy billing meter / connection number if any	Feeder Panel rating (kW)	Cable length	Cable size / rating	Name of Road	Road Width (meter)	Road Group	Total no of poles connected on feeder panel	Nomenclature specific to each pole marking	Pole GPS Coordinates	Pole arrangement	Pole Height (m)	Rating (w)	Nos installed on pole	Make	Model Number	Date of installation	Earthing Electrode is installed (Y/N)		
1												11	A/"D." N/AA/"W." NN/ "FP." NN / 01										
													A/"D." N/AA/"W." NN/ "FP." NN / 02										
													A/"D." N/AA/"W." NN/ "FP." NN / 03										
													A/"D." N/AA/"W." NN/ "FP." NN / 04										
													A/"D." N/AA/"W." NN/ "FP." NN / 05										
													A/"D." N/AA/"W." NN/ "FP." NN / 06										
													A/"D." N/AA/"W." NN/ "FP." NN / 07										
													A/"D." N/AA/"W." NN/ "FP." NN / 08										
													A/"D." N/AA/"W." NN/ "FP." NN / 09										
													A/"D." N/AA/"W." NN/ "FP." NN / 10										
													A/"D." N/AA/"W." NN/ "FP." NN / 11										

SCHEDULE 5 - KEY PERFORMANCE INDICATORS & REPORTING FORMATS

1. Key performance indicators

The Project SPV shall be responsible for meeting the following Key Performance Indicators (KPI) during the Term of the Project.

KPI	Minimum prescribed levels	Measurement/ reporting schedule	Responsibility for measurement/ reporting
Non-working Lamp-hours	< 5%	Daily & Monthly	Project SPV (CCMS)
Rectification of defective/ non-glowing lamps	< 48 hours (From the date and time of complaint registered online in CCMS web portal /in mail / written format by respective ULB	Daily & Monthly	Project SPV (CCMS)

The measurement procedure for the above is described below.

2. Detailed Methodology & Formats

- a) The Project SPV shall be responsible for maintaining the LED Luminaires under the Project in good working condition and shall ensure the following during the Term of the Project:
 - i. Non-working lamp hours at the Project level shall be maintained within a limits of 5% (i.e. 95% availability);
 - ii. Repair, replace and cure all faults to ensure all reported and/ or identified defective and/ or non-glowing lamps are brought back to acceptable working conditions, meeting the criteria specified in the Schedule 3. This shall be accomplished within a period of forty-eight (48) hours from the time of identification or reporting of failure/ defect by respective ULB online in CCMS web portal /in mail / written format.
- a) The Project SPV shall, at its own cost & expense, put in place adequate measurement, communication and software systems for being able to appropriately record and generate reports from the CCMS on its performance on the above KPIs on a daily, weekly, monthly and annual basis.
- b) Additionally, the Project SPV shall, record and maintain the energy consumption, power outage, dimming hours, hour wise number of estimated functional luminaires, % uptime etc. based on the reports generated from the CCMS on a daily basis from the readings received from the individual streetlight controller equipment installed at each feeder panel.
- c) For calculation of non-working lamp hours, the hours/ duration of power outage from the source end of the responsible power distribution licensee shall be duly adjusted from the total number of applicable lamp-hours for any given day, week, month and year. Such power outages as recorded in the metering equipment installed at the feeder panel level only shall be considered for the purpose of calculation of non-working lamp hours due to power outage.

- d) For the purpose of measurement of performance on the KPI for rectification of defective/ non-glowing lamps, the Project SPV shall put in place adequate systems and processes for recording complaints and identification of non-glowing lamps including the following sources:
- i. Predictive identification of defective/ non-glowing lamps based on loading analysis at feeder panel level through software systems installed at CCMS;
 - ii. Complaints on non-glowing/ defective lamps as lodged by citizens/ general public through respective ULB;
 - iii. Any non-glowing/ defective lamp identified and reported by any official of the respective ULB;
 - iv. Defective/ non-glowing lamps as reported by respective ULB based on Lux level and uniformity ratio measurements based on 9 point method for lux level measurement; and
 - v. Any other source that reports/ records existence of such non-glowing/ defective lamps to the Project SPV/ CCMS.

3. Reporting formats (minimum requirement)

Daily non-functional LED Luminaire report							
Report date:							
ULB name	Feeder panel no. / name	Total number of LED Luminaires as on Date (EOD)	Total number of non-functional LED Luminaires as on previous day (EOD)	Total number of non-functional LED Luminaires as on date (EOD)	Number of non-functional LED Luminaires for the day	Action taken	Remarks

On the basis of above, the Project SPV shall submit quarterly compliance to the respective ULB in the following formats along with the invoice to be submitted,

Feeder panel no./name	% non-functional lamp hours for a Feeder Panel	Remark

$$\% \text{ non – functional lamp hours for a Feeder Panel} = \frac{\text{Non Functional Lamp Hours}}{\text{Total No of Hours X No of LED Luminaires}}$$

SCHEDULE 6 - LIQUIDATED DAMAGES

1) Delay Liquidated Damages

Subject to Article 14.1, in the event the Project SPV fails to achieve the Project COD by the Project SCOD for reasons other than those set out in Article 14.1, it shall pay liquidated damages (**Delay Liquidated Damages**) to the Authority as per the following. The payment of Delay Liquidated Damages shall be as per the the provisions of Article 14.3 of this Agreement.

- a) For each week of delay beyond Project SCOD and up to a maximum of four (4) weeks, the Project SPV shall be liable to pay Authority, Delay Liquidated Damages of an amount equal to One Lakh Indian Rupees (INR. 1 lakh) for each week of delay.
- b) For every week further to delay as specified in a) above and up to a maximum of one hundred and twenty (120) days beyond Project SCOD, the Project SPV shall be liable to pay Authority, Delay Liquidated Damages of an amount equal to Five (5) Lakh Indian Rupees (INR. 5 lakh) for each week.
- c) Any delay beyond one hundred and twenty (120) days beyond Project SCOD, it shall be treated as Project SPV EOD and the Authority shall have the right to terminate this Agreement under Clause 22.1 and encash the Performance Security.

2) Performance Liquidated Damages

2.1 Liquidated Damages for Non- compliance with the standards set out in Schedule 5

- In the event that the O&M Services do not meet the standards set out in Schedule 5, then the Project SPV shall pay to the Authority liquidated damages in the following manner:

2.2 For Non-Compliance to Non-working Lamp Hours

In the event the Project SPV, in any given month, fails to achieve the minimum prescribed level of performance against the KPI on Non-working Lamp Hours, as specified in Schedule 5, it shall be liable to pay to the Authority an amount as determined through the following formula:

For every slippage of one per cent (1%) in non-functional lamp hours beyond the acceptable limit of two percent (2%), the Project SPV shall pay Authority an amount equivalent to three (3) percent of the value of monthly O&M Fees, in accordance with the following:

Penalty for non-compliance to Non - working lamp hours= 3 X % Slippage X Monthly O&M Fee Amount

In case the Project SPV fails to rectify the reported/ recorded faulty Luminaires and/ or other equipment supplied, installed and maintained by the Project SPV within seven (7) days of the stipulated timeframe, Authority may proceed with such rectification and deduct the cost of such works from the payments due to the Project SPV.

The above considers 5 times penalty, on the Annual O&M Payment payable to the Project SPV by the Authority, for every percentage (%) slippage or part thereof in the Non-working Lamp Hours beyond the minimum specified level in any given month.

Such amount as calculated as per above shall be deducted by the Authority from the payments due to the Project SPV in the month following the month during which such non-compliance has occurred.

2.3 For Non-Compliance to KPI on Rectification of defective/ non-glowing lamps

In the event the Project SPV, in any given month, fails to achieve the minimum prescribed level of performance against the KPI on Rectification of each defective/ non-glowing lamp, as specified in Schedule 5, it shall be liable to pay to the Authority an amount as determined in accordance with the following:

- a) INR. 500 for every day of delay, for the first five (5) days beyond the prescribed limit;
- b) INR. 2,000 for every day of delay, for all days beyond that;

The Authority shall have the right to treat any delay in rectification of defective non-glowing lamps beyond 15 days as an event of default.

Such amount as calculated as per above shall be deducted by the Authority from the payments due to the Project SPV in the month following the month during which such non-compliance has occurred.

SCHEDULE 7 - EQUIPMENT PRICE SCHEDULE

[Note: The Selected Bidder's Input Sheet to inserted.]

ANNEX 1 - FORMAT OF THE AMENDMENT AGREEMENT

This AMENDMENT AGREEMENT is entered into on this _____ 2018.

AMONGST:

- (1) **DIRECTORATE OF MUNICIPAL ADMINISTRATION** represented by, with its principal office at [●] (hereinafter referred to as the **Authority**, which expression shall unless repugnant to the context or meaning thereof include its successors and permitted assigns);
- (2) [*Name of the Project SPV*], with its registered office at [●] (hereinafter referred to as the **Project SPV**, which expression shall unless repugnant to the context or meaning thereof include its successors and permitted assigns).

AND

- (3) **ULBs representing the Cluster** (hereinafter called as **ULBs**) [*List of ULBs in the Cluster is provided in recital to this Agreement along with Schedule 4*].

The Authority, the Project SPV and ULBs shall collectively be referred to as the **Parties** and individually as a **Party**.

WHEREAS:

- A. The Parties executed the Supply, Installation, Operation and Maintenance Agreement on [●] 2018 (**Agreement**) for developing a green fieldenergy efficient public street lighting system in the Cluster on a public private partnership basis.
- B. The Joint Survey Team has conducted the Joint Survey in accordance with the guidelines set out at Schedule 4 of the Agreement. The ULB and the Project SPV shall jointly prepared the Joint Survey Report, which has been approved by the Authority with support from Transaction Advisor appointed by OUIDF.
- C. In accordance with the Agreement, the Project SPV has submitted the Equipment Installation Plan which has been approved by the entity appointed by OUIDF.
- E. In terms of Clause 3.3 of the Agreement, Parties have now agreed to execute an amendment agreement to the Agreement to make the Joint Survey Report, and the Equipment Installation Plan part of the Agreement.

IT IS AGREED as follows:

1. **Amendments**

The following annexes attached to this Amendment Agreement shall be part of the Agreement:

- (a) Annex A (Joint Survey Report); and

(b) Annex B (Equipment Installation Plan).

2. **Miscellaneous**

- (a) All capitalised terms used in this Amendment Agreement and not defined herein shall have the meanings ascribed to them in the Agreement.
- (b) This Amendment Agreement shall be deemed to be an "Amendment Agreement" as envisaged under Clause 3.3 of the Agreement.
- (c) All provisions of the Agreement are hereby incorporated in this Amendment Agreement by reference, *mutatis mutandis*, as though set out in full herein.
- (d) Pursuant to Clause 3.3 of the Agreement, this Amendment Agreement, once executed, shall be binding on the Parties with immediate effect.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEAL TO THESE PRESENTS ON THE DAY, MONTH & YEAR FIRST ABOVE WRITTEN IN PRESENCE OF THE FOLLOWING WITNESSES:

SIGNED, SEALED & DELIVERED

FOR AND ON BEHALF OF THE AUTHORITY

(Authorised Signatory)

FOR AND ON BEHALF OF THE PROJECT SPV

(Authorised Signatory)

FOR AND ON BEHALF OF ULB1

(Authorised Signatory)

Witnesses:

- 1.
- 2.

FOR AND ON BEHALF OF ULB2

(Authorised Signatory)

Witnesses:

- 1.
- 2.

...
..
..

FOR AND ON BEHALF OF ULB3

(Authorised Signatory)

Witnesses:

- 1.
- 2.

ANNEX 2 - FORMAT OF THE ESCROW AGREEMENT

(To be executed on appropriate stamp paper of appropriate value)

THIS ESCROW AGREEMENT (this **Escrow Agreement**) is entered into on [●] [2018] by and among:

1. **DIRECTORATE OF MUNICIPAL ADMINISTRATION represented by**, with its principal office at [●] (hereinafter referred to as the **Authority**, which expression shall unless repugnant to the context or meaning thereof include its successors and permitted assigns);
2. [Name of the Project SPV], with its registered office at [●] (hereinafter referred to as the **Project SPV**, which expression shall unless repugnant to the context or meaning thereof include its successors and permitted assigns); and
3. [●], a bank duly constituted in accordance with the laws of India and carrying on the business of banking in India under the Banking Regulation Act ,1949 as a scheduled commercial bank, with its registered office at [●] and acting for the purposes of this Escrow Agreement through its branch office at [●] (hereinafter referred to as **Escrow Agent**, which expression shall unless repugnant to the context or meaning thereof includes its successors and permitted assigns).

The Authority, the Project SPV and the Escrow Agent are referred to herein collectively as **Parties** and individually as **Party**.

WHEREAS:

- A. The Authority, the Project SPV and ULBs representing Cluster [●] executed the Supply, Installation, Operation and Maintenance Agreement on [●] (**SIOM Agreement**) for developing an energy efficient public street lighting system in the Cluster on a public private partnership basis.
- B. As per the provisions of the SIOM Agreement, the Authority and the Project SPV are required to appoint an escrow agent and open an escrow account with such agent for making periodical payments to the Project SPV for implementing the Project.
- C. The escrow account shall be funded by the Authority in accordance with the terms of this Escrow Agreement and such account shall serve to secure the Authority's payment obligations towards the Project SPV under the SIOM Agreement.
- D. The Escrow Agent is willing to serve as an escrow agent in accordance with the terms and conditions of this Escrow Agreement.

NOW, THEREFORE, the Parties hereto agree as follows:

1. ESCROW ACCOUNT

1.1 Appointment

The Authority and the Project SPV hereby appoint the Escrow Agent to serve as the escrow agent for the purposes of this Escrow Agreement and the Escrow Agent hereby accepts this appointment.

1.2 Escrow Account

Within 5 Business Days of the date hereof, the Authority and the Escrow Agent shall establish an escrow bank account denominated in Indian Rupees for the benefit of the Project SPV (the **Escrow Account**) designated as

1.3 Deposit and Payment

1.3.1 The Authority shall transfer the Capital Subsidy in the Escrow Account in accordance with the provisions of the SIOM Agreement.

1.3.2 The Authority shall at all times during the Term, fund the Escrow Account with an amount equivalent to Annuity Fee for 6 Months in relation to the Project Street Light Points.

(collectively referred to as **Escrow Amount**).

1.3.3 Within 10 Days of issue of Equipment Commissioning Certificate and the Project SPV issuing the Payment Statement to the Authority, whichever is later, in respect of installation of Equipment, the Authority shall issue written instructions to the Escrow Agent to release Capital Cost Payment to the Project SPV for the Equipment Installed. Within 1 Business Day of receipt of such written instructions, the Escrow Agent shall release the amount mentioned therein to the Project SPV; and

1.3.4. Within 3 Business Days from the receipt of a monthly Payment Statement, the Authority shall issue written instructions to the Escrow Agent to release 75% of the Annuity Fee to the Project SPV for the relevant month. Within 1 Business Day of receipt of such written instructions, the Escrow Agent shall release the amount mentioned therein to the Project SPV.

1.3.5 Subject to Clause 1.3.6 below, the Authority shall, within 10 days from the acceptance of a monthly Payment Statement, issue written instructions to the Escrow Agent to release the balance 25% of the Annuity Fee to the Project SPV for the relevant month. Within 1 Business Day of receipt of such written instructions, the Escrow Agent shall release the amount mentioned therein to the Project SPV.

1.3.6 If the Authority wishes to exercise its right to set-off any amount due to the Project SPV against any amounts due and payable from the Project SPV to the Authority from the remaining 25%, it shall issue written instructions accordingly to the Escrow Agent.

1.4 **Identification and Separation**

The Escrow Agent shall clearly identify in its records the Escrow Account as an escrow account and shall keep the funds standing to the credit of the Escrow Account separated and segregated from the Escrow Agent's own funds or funds of any of its other customers or third parties.

1.5 **Fees**

1.5.1 The Project SPV shall pay [INR. [●] per annum] as fees to the Escrow Agent for the establishment and management of the Escrow Account. The Project SPV shall pay such fees to the Escrow Agent within 10 Business Days of receipt of an invoice from the Escrow Agent.

1.5.2 Any payment made by the Authority under this Escrow Agreement shall be made from the following account or from such other account which the Authority may designate from time to time:

Bank:

Account number:

BIC (SWIFT):

Address of Bank:

1.6 **Escrow Account Statements**

The Escrow Agent shall provide monthly statements regarding the Escrow Account to the Authority and the Project SPV.

2. **ESCROW AMOUNT**

2.1 Promptly upon the Escrow Amount being transferred to the Escrow Account, the Escrow Agent shall send to the Authority and the Project SPV a notice informing them of the transfer.

2.2 The Escrow Agent shall hold the Escrow Amount in escrow for the sole benefit of the Project SPV. The Escrow Agent shall not release any of the Escrow Amount to any person other than the Project SPV. In particular, the Escrow Agent shall not accept any requests for withdrawals or transfers of the Escrow Amount from the Authority for the benefit of the Authority or any third party, unless it is made in accordance with this Escrow Agreement.

2.3 The Escrow Agent shall not apply any right of set-off against the Escrow Amount, grant any lien over the Escrow Amount, or apply any fee or deduction in relation to the Escrow Amount.

3. **Expiry**

Upon the Transfer Date, the Authority shall send instructions to the Escrow Agent requesting it to release and transfer any due and payable amounts to the Project SPV and any remaining amounts to be transferred to the Authority.

4. OBLIGATIONS OF THE ESCROW AGENT

4.1 The obligations of the Escrow Agent under this Escrow Agreement are subject to the following terms:

- (a) the duties of the Escrow Agent are only as herein specifically provided, and are purely administrative in nature. Unless expressly provided in the Escrow Agreement, the Escrow Agent shall neither be liable for, nor chargeable with knowledge of, the terms and conditions of any other agreement, instrument or document in connection herewith, including, without limitation, the SIOM Agreement, and shall be required to act in respect of the Escrow Amount only as provided in this Escrow Agreement.
- (b) the Escrow Agent shall not be required to perform any acts which will violate any Applicable Laws; and
- (c) This Escrow Agreement sets forth all the obligations of the Escrow Agent with respect to any and all matters pertinent to the Escrow Account contemplated hereunder and no additional obligations of the Escrow Agent shall be implied from the terms of any other agreement.
- (d) In the event of any bankruptcy proceedings or enforcement proceedings against any of the Parties pursuant to applicable laws or regulations, the Escrow Agent shall, notwithstanding the provisions of this Escrow Agreement, act and perform in accordance with Applicable Laws
- (e) The Escrow Agent shall incur no liability in connection with the discharge of its obligations under this Escrow Agreement or in connection therewith, except such liability as may arise from the Escrow Agent's negligence, wilful misconduct or otherwise from any breach of this Escrow Agreement. Such liability, however, shall not exceed the amount of the Escrow Amount outstanding at the date of the said breach by the Escrow Agent;
- (f) If at any time all the obligations owing to the Project SPV have been indefeasibly paid/adjusted in full and the SIOM Agreement shall have been terminated, then this Agreement shall cease to be of further effect and on receipt of the written instructions of the Authority and the Project SPV, the funds remaining in the Escrow Account shall be transferred to the account (*Name to be inserted based on agreement between bank, Authority and Project SPV*).
- (g) Notwithstanding anything contained in this Agreement, the Authority and the Project SPV_ unconditionally agree and unequivocally confirm that the Escrow Bank shall have the right to exit / resign, without assigning any reason whatsoever, from this Agreement or terminate this Agreement by giving 30 days' notice in writing to the _Authority and the Project SPV. Upon expiry of the aforesaid notice period, the Escrow Bank shall, transfer the amount/s lying in the escrow account to such account as may be

designated by the Authority and the Project SPV, and the Escrow Bank shall stand discharged / released from all its obligations under this Agreement.

5. **REPRESENTATIONS AND WARRANTIES**

Each Party represents and warrants that, as of the date hereof and in the foreseeable future,:

- (a) it has the authority to enter into this Escrow Agreement;
- (b) this Escrow Agreement constitutes a legally valid and binding obligation, enforceable against it in accordance with its terms;
- (c) its entry into and/or performance under this Escrow Agreement will not be in breach of any express or implied terms of any contract with or other obligation to any third party; and
- (d) it is solvent and able to perform all of its obligations under this Escrow Agreement.

6. **MISCELLANEOUS**

6.1 **Definitions**

Unless otherwise defined herein, all capitalised terms shall have the meaning ascribed to them in the Agreement.

6.2 **Notices**

Any notice or other communication to be given or made under this Escrow Agreement to the Parties shall be in writing. Except as otherwise provided in this Escrow Agreement, such notice, request or other communication shall be delivered by registered mail or facsimile to the Party(ies) at the following addresses:

Authority: [●]

Project SPV: [●]

Escrow Agent: [●]

6.3 **Entire Agreement**

This Escrow Agreement constitutes the entire agreement and understanding between the Parties with respect to its subject matter (i.e. escrow arrangement) and replaces and supersedes all prior agreements, arrangements, undertakings or statements regarding such subject matter.

6.4 **Amendments**

No variation of or amendment to this Escrow Agreement shall be effective unless made in writing and executed by all the Parties hereto.

6.5 **Assignment**

Neither this Escrow Agreement nor any of the rights or obligations hereunder may be assigned by a Party without the prior written consent of the other Parties.

6.6 **Severability**

Whenever possible, each provision of this Escrow Agreement shall be interpreted in such a way as to be effective and valid under law, but if any provision of this Escrow Agreement is unenforceable or invalid under law, such provision shall be ineffective only to the extent of such unenforceability or invalidity, and the remaining provisions of this Escrow Agreement shall continue to be binding and in full force and effect.

6.7 **Confidentiality**

Unless otherwise determined by a competent jurisdiction, the Parties, their employees, representatives and agents shall keep the provisions of this Escrow Agreement strictly confidential and, except as may be required by Applicable Laws, shall make no disclosure thereof to any person, except the Parties' respective legal counsel and professional advisers, without the prior written consent of the other Parties.

6.8 **Termination**

This Escrow Agreement shall be automatically terminated upon the expiry of the Term of the Agreement. It may also be terminated earlier if the Authority, Project SPV and ULBs agree to terminate the Escrow Agreement and send a termination notice to the Escrow Agent.

Upon the termination of the escrow agreement either by the resignation of the Escrow Agent or termination of the Escrow agreement as per the terms of this agreement, the Authority shall send instructions to the Escrow Agent requesting it to release and transfer any due and payable amounts to the Project SPV. The instructions issued by the Authority should specifically contain the amount to be transferred to the Project SPV and the amount transferred to the Authority.

6.9 **Dispute Resolution Mechanism**

6.9.1 This Escrow Agreement shall be governed by and construed in accordance with the laws of India.

6.9.2 If any dispute arises out of or in connection with this Escrow Agreement, this dispute shall not affect the Parties' duty to continue the performance of all of their non-disputed obligations.

6.9.3 If any dispute arises, either Party shall give notice to the other Parties of the same, whereupon the Parties shall meet promptly and in a good faith to attempt to reach an amicable settlement.

6.9.4 All disputes not settled amicably pursuant to Clause 6.9.3 above shall be heard by the High Courts of Orissa at Cuttack.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE SET THEIR HANDS AND SEAL TO THESE PRESENTS ON THE DAY, MONTH & YEAR FIRST ABOVE WRITTEN IN PRESENCE OF THE FOLLOWING WITNESSES:

SIGNED, SEALED & DELIVERED

FOR AND ON BEHALF OF THE AUTHORITY

(Authorised Signatory)

FOR AND ON BEHALF OF THE PROJECT SPV

(Authorised Signatory)

FOR AND ON BEHALF OF THE ESCROW AGENT

(Authorised Signatory)

Witnesses:

- 1.
- 2.

ANNEX 3 - FORMAT OF THE PERFORMANCE BANK GUARANTEE

(To be executed on appropriate stamp paper of appropriate value)

Bank Guarantee No. [●]

THIS DEED OF GUARANTEE is executed on this [*insert date*] day of [*insert month and year*] at [*insert place*] by [*insert name of bank*] having its head/registered office at [*insert address*], (hereinafter referred to as the "**Guarantor**", which expression shall unless repugnant to the subject or context thereof include its successors, assigns and permitted substitutes);

IN FAVOUR OF:

DIRECTORATE OF MUNICIPAL ADMINISTRATION represented by, with its principal office at [●] (hereinafter referred to as the **Authority**, which expression shall unless repugnant to the context or meaning thereof include its successors and permitted assigns).

WHEREAS

- A. The Authority has entered into a Supply, Installation, Operation and Maintenance Agreement dated [*insert date*] (the "**Agreement**") with [*Name of the Project SPV*], with its registered office at [*Registered office address*] (hereinafter referred to as the **Project SPV**, which expression shall unless repugnant to the context or meaning thereof includes its successors and permitted assigns).
- B. In terms of Clause 12 of the Agreement, the Project SPV is required to furnish to the Authority, an unconditional, irrevocable, on demand bank guarantee for an amount of INR [●] as security for due performance of its obligations under the Agreement during the commencing from the date of this guarantee until the Transfer Date (**Guarantee Term**), including any amounts due and payable by it to Delay Liquidated Damages or Performance Liquidated Damages that it is liable to pay under the Agreement.
- C. At the request of the Project SPV and for sufficient consideration, the Guarantor has agreed to provide an unconditional, irrevocable and on-demand bank guarantee for the due and punctual performance/discharge by the Project SPV of its obligations under the Agreement during the Term, including any Delay Liquidated Damages or Performance Liquidated Damages that the Project SPV is liable to pay under the Agreement.

NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS:

- 1. Capitalised terms used herein but not defined shall have the meaning ascribed to them in the Agreement.
- 2. The Guarantor hereby irrevocably and unconditionally guarantees and secures, as primary obligor and not merely as guarantor, to the Authority, the payment in full of all amounts at any time that may be due, owing or payable to the Authority from the Project SPV for the failure of the Project SPV to duly and punctually perform all of its obligations under the Agreement during the Guarantee Term ("**Guarantee**"), without any demur, reservation, protest or recourse, immediately on receipt of a demand from the Authority.

The Guarantee is given on consideration received from the Project SPV (the receipt and sufficiency of which is hereby acknowledged).

The Guarantor agrees that the value of the Guarantee shall at all times be maintained at the amount of INR [●]¹⁷ ("**Guaranteed Amount**").

The Guarantor further agrees that this Guarantee does not limit the number of claims that may be made by the Authority against the Guarantor. Upon a payment being made under this Guarantee, the amount of the Guarantee shall automatically be replenished to the full Guaranteed Amount.

Any payment made hereunder shall be made free and clear of and without deduction for, or on account of, any present or future Taxes, deductions or withholdings of any nature whatsoever and by whomsoever imposed, and where any withholding on a payment is required by any Applicable Law, the Guarantor shall comply with such withholding obligations and shall pay such additional amount in respect of such payment such that the Authority receives the full amount due hereunder as if no such withholding had occurred.

3. The Guarantor shall not go into the veracity of any breach or failure on the part of the Project SPV or validity of demand so made by the Authority and shall pay the amount specified in the demand notwithstanding any direction to the contrary given or any dispute whatsoever raised by the Project SPV or any other Person. The Guarantor's obligations hereunder shall subsist until all such demands are duly met and discharged in accordance with the provision hereof.
4. The obligations of the Guarantor herein are absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of the Agreement or the insolvency, bankruptcy, re-organisation, dissolution or liquidation of the Project SPV or any change in ownership of the Project SPV or any purported assignment by the Project SPV or any other circumstance whatsoever which might otherwise constitute a discharge or defence of a guarantor or a surety.

Further, this Guarantee is in no way conditional upon any requirement that the Authority shall first attempt to procure the Guaranteed Amount from the Project SPV or any other Person, or resort to any other means of obtaining payment of the Guaranteed Amount.

5. In order to give effect to this Guarantee, the Authority shall be entitled to treat the Guarantor as the principal debtor. The obligations of the Guarantor under this Guarantee shall not be affected by any act, omission, matter or thing which, but for this provision, would reduce, release or prejudice the Guarantor from any of the Guaranteed Amount or prejudice or diminish the Guaranteed Amount in whole or in part, including, whether or not known to it, or to the Authority:
 - (a) any time or waiver granted to, or composition with, the Project SPV or any other Person;
 - (b) any incapacity or lack of powers, authority or legal personality of or dissolutions or

¹⁷ Please refer to footnote 1 above.

change in the status of the Project SPV or any other Person;

- (c) any variation of the Agreement so that references to the Agreement in this Guarantee shall include each variation;
 - (d) any unenforceability, illegality or invalidity of any obligation of any Person under the Agreement or any unenforceability, illegality or invalidity of the obligations of the Guarantor under this Guarantee or the unenforceability, illegality or invalidity of the obligations of any Person under any other document or Guarantee, to the extent that each obligation under this Guarantee shall remain in full force as a separate, continuing and primary obligation, and its obligations be construed accordingly, as if there were no unenforceability, illegality or invalidity;
 - (e) the partial or entire release of any Guarantor or other Person primarily or secondarily liable or responsible for the performance, payment or observance of any of the Project SPV's obligations during the Term; or by any extension, waiver, or amendment whatsoever which may release a guarantor or Guarantor, other than performance or indefeasible payment of a Guaranteed Amount; or
 - (f) any part performance of the Agreement by the Project SPV or by any failure by the Authority to timely pay or perform any of its obligations under the Agreement.
6. If, and to the extent that for any reason the Project SPV enters or threatens to enter into any proceedings in bankruptcy or re-organisation or otherwise, or if, for any other reason whatsoever, the performance or payment by the Project SPV of the Guaranteed Amount becomes or may reasonably be expected to become impossible, then the Guaranteed Amount shall be promptly paid by the Guarantor to the Authority on demand.
7. So long as any amount is due from the Project SPV to the Authority, the Guarantor shall not exercise any right of subrogation or any other rights of a guarantor or enforce any guarantee or other right or claim against the Project SPV, whether in respect of its liability under this Guarantee or otherwise, or claim in the insolvency or liquidation of the Project SPV or any such other Person in competition with the Authority. If the Guarantor receives any payment or benefit in breach of this Clause 7, it shall hold the same upon trust for the Authority.
8. This Guarantee shall remain in full force and effect from the date hereof until the Transfer Date.

Notwithstanding the foregoing, this Guarantee shall continue in effect until the sums payable under this Guarantee have been indefeasibly paid in full and the Guarantor receives written notice thereof from the Authority, such notice to be issued promptly upon such occurrence.

9. The Guarantor represents and warrants to the Authority that:
- (a) it has the power to execute, deliver and perform the terms and provisions of this Guarantee and has taken all necessary action to authorise the execution, delivery and performance by it of this Guarantee;
 - (b) the Guarantor has duly executed and delivered this Guarantee, and this Guarantee constitutes its legal, valid and binding obligation enforceable in accordance with its

terms except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, moratorium or other similar laws affecting the enforcement of creditors' rights generally and by general equitable principles;

- (c) neither the execution, delivery or performance by the Guarantor of this Guarantee, nor compliance by it with the terms and provisions hereof will: (i) contravene any material provision of any Applicable Law; (ii) conflict or be inconsistent with or result in any breach of any of the material terms, covenants, conditions or provisions of, or constitute a default under any agreement, contract or instrument to which the Guarantor is a party of by which it or any of its property or assets is bound; or (iii) violate any provision of the Guarantor's constituent documents;
 - (d) no order, consent, approval, license, authorisation or validation of, or filing, recording or registration with, except as have been obtained or made prior to the date hereof, or exemption by, any governmental or public body or authority, or any subdivision thereof, is required to authorise, or is required in connection with: (i) the execution, delivery and performance of this Guarantee; or (ii) the legality, validity, binding effect or enforceability of this Guarantee; and
 - (e) this Guarantee will be enforceable when presented for payment to the Guarantor's branch in Bhubaneswar at [●].
10. This Guarantee is a continuing one and all liabilities to which it applies or may apply under the terms hereof shall be conclusively presumed to have been created in reliance hereon. No failure or delay on the part of the Authority in exercising any right, power or privilege hereunder and no course of dealing between the Authority and the Guarantor, or the Project SPV, shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.
11. The rights, powers and remedies expressly provided in this Guarantee are cumulative and not exclusive of any rights, powers or remedies which the Authority would otherwise have. No notice to or demand on the Guarantor in any case shall entitle the Guarantor to any other further notice or demand in similar or other circumstances or constitute a waiver of the rights of the Authority to any other or further action in any circumstances without notice or demand.
12. If any one or more of the provisions contained in this Guarantee are or become invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, and the Guarantor shall enter into good faith negotiations with the Authority to replace the invalid, illegal or unenforceable provision.
13. The Guarantor hereby agrees to execute and deliver all such instruments and take all such actions as may be necessary to make effective fully the purposes of this Guarantee.
14. This Guarantee may be executed in one or more duplicate counterparts, and when executed and delivered by the Guarantor and the Authority shall constitute a single binding agreement.
15. The Authority may assign or transfer all or any part of its interest herein to any other person with prior written notice to the Guarantor. The Guarantor shall not assign or transfer any of its

rights or obligations under this Guarantee.

16. All documents arising out of or in connection with this Guarantee shall be served:
 - (a) upon the Authority, at [*insert address*]; and
 - (b) upon the Guarantor, at [*insert address*].
17. Any demand, notice or communication would have been deemed to have been duly served:
 - (a) if delivered by hand, when left at the proper address of services; and
 - (b) if given or made by pre-paid registered post or facsimile, when received.
18. Either party may change the above address by prior written notice to the other party.
19. This Guarantee shall be governed by, and construed in accordance with, the laws of India. The Guarantor irrevocably agrees that any dispute arising out of or relating to this Guarantee will be adjudicated in accordance with the provision of the Arbitration and Conciliation Act, 1996.

IN WITNESS WHEREOF the Guarantor has set its hands hereunto on the Day, Month and year first hereinabove written.

Signed and delivered by [*insert name of Bank*] Bank by hand

Of Mr. [*insert name of signatory*]
its [*insert designation*] and duly authorised representative
authorised by [Power of Attorney dated [*insert date*]] OR [Board resolution dated [*insert date*]].

ANNEX 4 - FORMAT OF THE VESTING CERTIFICATE

With respect to the Supply, Installation, Operation and Maintenance Agreement dated [●] executed between **DIRECTORATE OF MUNICIPAL ADMINISTRATION represented by** (**Authority**), ULBs and [*Insert name of the Project SPV*] (the **Project SPV**) for the implementation of energy efficient public lighting system in the Cluster hereby acknowledges:

- (a) compliance and fulfilment by the Project SPV of its obligations set out in Clause 26.2;
- (b) receipt of actual possession of the Project from the Project SPV; and
- (c) receipt from the Project SPV of a certificate confirming that there are no liens or encumbrances whatsoever on the Project,

on the basis that upon the issue of this Vesting Certificate, the Authority shall be deemed to have acquired, and all title and interest of the Project SPV in or about the Project shall be deemed to have vested, unto the Authority free from all Encumbrances.

Notwithstanding anything to the contrary contained hereinabove it shall be a condition of this Vesting Certificate that in the event of any defect or efficiency in any of the transfer requirements set forth in Clause 26.2 of the Agreement being found or discovered at any time hereafter, nothing contained in this Vesting Certificate shall be construed or interpreted as waiving the obligation of the Project SPV to rectify and remedy the same and/or relieving the Project SPV in any manner of the same.

Agreed and accepted

For the Project SPV

For Authority

By:.....
Name:
Title:
Dated:

By:.....
Name:
Title:
Dated:

For ULB1

By:.....
Name:
Title:
Dated:

For ULB1

By:.....
Name:
Title:

Dated:

..
..
..

For ULBn

By:.....

Name:

Title:

Dated:

ANNEX 5 - FORMAT OF THE PAYMENT STATEMENT

(To be issued by the Project SPV on its letterhead)

From

Date: [insert date]

[Name of the Authorized Signatory]

[insert designation]

[Name of Project SPV]

[Address of Project SPV]

To

.....

[Directorate of Municipal Administration]

[Address]

Sr. No.	Payment Particular	Milestone & Evidence#	Amount (INR)***
1.	Capital Subsidy* (Equipment Commissioning certificate to be attached)		
2.	Annuity Fee**		
	Total		

Note:

***Capital Subsidy** is payable on monthly basis specific to each ULB on completion of all the stretches for that ULB and on the basis of actual Equipment commissioning and other infrastructure in accordance with approved Equipment Installation Plan.

#Project SPV to insert the respective milestone & evidence, as applicable. The Project SPV is required to get the validation of the installation and commissioning of the Equipment as per the Equipment Installation Plan from the respective ULBs.

**Annuity Fee shall be payable monthly and shall comprise of capex and opex component.

***Amount to be computed based on Equipment Rate provided in Schedule 7.

Yours faithfully,

(Signature, name and designation of the Authorised Signatory)

Dated this [insert date] day of [insert month] 2018

Seal of the Project SPV

Place:

ANNEX 6 - FORMAT OF THE NOVATION AGREEMENT

(To be issued on appropriate Stamp Paper)

(Applicable only if the Selected Bidder has not formed the Project SPV and has executed the SIOM Agreement itself)

THIS NOVATION AGREEMENT (this **Novation Agreement**) is entered into at [] on [] by and among:

(1) **DIRECTORATE OF MUNICIPAL ADMINISTRATION** represented by, with its principal office at [●] (hereinafter referred to as the **Authority**, which expression shall unless repugnant to the context or meaning thereof include its successors and permitted assigns);

AND

(2) [_____ *[insert name of the Selected Bidder]*] with its registered office at [*insert address*] (hereinafter referred to as **Selected Bidder**, which expression shall unless repugnant to the context or meaning thereof include its successors and permitted assigns).

AND

(3) [_____ *[insert name of Project SPV]*] with its registered office at [*insert address*] (hereinafter referred to as **Project SPV**, which expression shall unless repugnant to the context or meaning thereof include its successors and permitted assigns)

For the purpose of this Novation Agreement, the Authority, Selected Bidder and Project SPV are collectively referred to as **Parties** and individually as **Party**.

WHEREAS:

- A. The Authority, Selected Bidder and ULBs representing Cluster [●] have executed a Supply, Installation, Operation & Maintenance Agreement on [●] (the **SIOM Agreement**) for developing an energy efficient green field public lighting system in the Cluster on a public private partnership basis (**Project**).
- B. The Selected Bidder has agreed that it will incorporate a special purpose vehicle to implement the Project, within 30 days from the signing of the SIOM Agreement and once incorporated, the special purpose vehicle (i.e., Project SPV) is the entity which shall undertake and perform the obligations of the Selected Bidder. Further to this, the Selected Bidder has incorporated Project SPV on [**insert date**].
- C. The Parties are desirous of executing this Novation Agreement to novate the Agreement to the Project SPV.

NOW, THEREFORE, the Parties hereto agree as follows:

1. DEFINITIONS

- 1.1 Capitalized terms used but not defined in this Novation Agreement shall have the meaning given to them in the Agreement.

2. NOVATION

The Parties agree that with effect from the date of this Novation Agreement (the "**Effective Date**") the Agreement shall stand novated from the Selected Bidder to the Project SPV. For the avoidance of doubt it is clarified that from the Effective Date, the Project SPV shall assume all liabilities, obligations and duties of the Selected Bidder as contained in the Agreement, and the Project SPV hereby agrees to perform all the obligations and duties of the Selected Bidder under the Agreement and to be bound by its terms and conditions in every way as if the Project SPV were named in the Agreement as a party in place of the Selected Bidder.

3. All provisions of the Agreement shall continue in full force and effect and be enforceable against the Project SPV, without any amendments or modifications.

4. CONTINUING OBLIGATION

- 4.1.1 The Selected Bidder shall continue to meet its shareholding requirements in Project SPV in accordance with Clause 16 of the Agreement.
- 4.1.2 The Project SPV shall ensure that its articles of association adequately reflect the provisions of Clause 16 of the Agreement and the relevant commitments, obligations and responsibilities of the Selected Bidder.

5. REPRESENTATIONS

Each Party represents and warrants to the other Parties that:

- (a) it has full power and authority to execute, deliver and perform its obligations under this Novation;
- (b) it has taken all necessary actions to authorise the execution, delivery and performance of this Novation Agreement; and
- (c) there are no actions, suits or proceedings pending or to its best knowledge, threatened against or affecting it before any court, administrative body or arbitral tribunal which might materially and adversely affect its ability to meet or perform any of its obligations under this Novation Agreement, or the Agreement.

6. GOVERNING LAW AND DISPUTE RESOLUTION

This Novation Agreement and the rights of the Parties hereunder are governed by the laws of India and any disputes arising under or in connection with this Novation Agreement shall be settled in accordance with the dispute resolution mechanism set out in the Agreement.

For Authority

By.

Name: []

Designation: []

For Selected Bidder

By.

Name: []

Designation: []

For Project SPV

By.

Name: []

Designation: []

ANNEX 7 - LEGALLY BINDING DECLARATION OF UNDERTAKING
(To be issued by the Project SPV on its letterhead)

We underscore the importance of a free, fair and competitive procurement process that precludes abusive practices. In this respect we have neither offered nor granted directly or indirectly any inadmissible advantages to any public servant or other person nor accepted such advantages in connection with our bid, nor will we offer or grant or accept any such incentives or conditions in the present procurement process or, in the event that we are awarded the contract, in the subsequent execution of the contract. We also declare that no conflict of interest exists in the meaning of the kind described in the corresponding Guidelines¹⁸.

We also underscore the importance of adhering to environmental and social standards in the implementation of the project. We undertake to comply with applicable labour laws and the Core Labour Standards of the International Labour Organization (ILO) as well as national and applicable international standards of environmental protection and health and safety standards.

We will inform our staff about their respective obligations and about their obligation to fulfil this declaration of undertaking and to obey the laws of the country of India.

We also declare that our company/all members of the consortium has/have not been included in the list of sanctions of the United Nations, nor of the EU, nor of the German Government, nor in any other list of sanctions and affirm that our company/all members of the consortium will immediately inform the client and KfW if this situation should occur at a later stage.

We acknowledge that, in the event that our company (or a member of the consortium) is added to a list of sanctions that is legally binding on the client and/or KfW, the client is entitled to exclude our company/the consortium from the procurement procedure and, if the contract is awarded to our company/the consortium, to terminate the contract immediately if the statements made in the Declaration of Undertaking were objectively false or the reason for exclusion occurs after the Declaration of Undertaking has been issued.

(Place)	(Date)	(Name of company)
		(Signature(s))

¹⁸ *Guidelines for the Assignment of Consultants in Financial Cooperation with Partner Countries“ and “Guidelines for Procurement of Goods, Works and associated Services in Financial Cooperation with Partner Countries for reference:*
<https://www.kfw-entwicklungsbank.de/Download-Center/PDF-Dokumente-Richtlinien/Consulting-E.pdf>