

DRAFT

(To be signed on Non-judicial stamp paper of Rs.100/-)

Memorandum of Understanding between NTPC Vidyut Vyapar Nigam Limited and solar power developer willing to migrate to National Solar Mission

This Memorandum of Understanding (hereinafter referred to as “MoU”) entered into on this --- day of --- , 2010 by and between:

- A. **NTPC Vidyut Vyapar Nigam Limited** (a wholly owned subsidiary of NTPC Ltd.), a limited company incorporated under the Companies Act 1956 and having its registered office at Core-7, Scope complex, 7 Institutional Area, , Lodi Road, New Delhi-110003 (hereinafter referred to as “**NVVN**”), which expression, unless repugnant to the context or meaning thereof shall be deemed to include its successors and permitted assigns as party of the **First Part**, and
- B., incorporated under..... having its registered office at (hereinafter referred to as “**Project Developer**”), which expression shall unless repugnant to the context or meaning thereof include its successors in business and permitted assigns as party of the **Second Part** .

NVVN and Project Developer are hereinafter individually referred to as the ‘**Party**’ and collectively as ‘**Parties**’.

WHEREAS Government of India has decided to implement the first phase of the National Solar Mission during 2009-2013 by promoting grid solar power generation with a cumulative capacity of 1000 MW in operation up to 31st March,2013.

AND WHEREAS a Presidential Directive has been issued appointing NVVN as the Nodal Agency for purchase and sale of Solar Power during the first phase of the National Solar Mission during 2009-2013.

AND WHEREAS the Project Developer intends to set up a Solar Power Project ofMW capacity in the State ofThe Project Developer has already signed a Power Purchase Agreement with(DISCOM) for sale of electricity from the Solar Power Project.

AND WHEREAS Ministry of New and Renewable Energy (MNRE) has issued the Guidelines on 9th February,2010 for migration from existing under development grid connected solar Projects from existing arrangements to the Jawaharlal Nehru National Solar Mission (JNNSM).

AND WHEREAS the Project Developer have satisfied the conditions set forth in the guidelines notified by the Ministry of New and Renewable Energy (MNRE) on 9th February,2010 and are desirous to migrate from the existing arrangement to Jawaharlal Nehru National Solar Mission (JNNSM) launched on 11th January,2010 and intends to sell its solar power to NVVN under the National Solar Mission.

AND WHEREAS in terms of the Presidential Directive referred above, NVVN intends to purchase power from the Project Developer in accordance with the terms and conditions set forth herein and in the PPA to be signed between NVVN and Project Developer.

AND WHEREAS the Project Developer has submitted the following documents as per MNRE guidelines as a condition precedent to signing of MOU with NVVN.

- i) Copy of duly executed PPA;
- ii) Copy of Tariff finalized, or proof of submission of tariff petition filed with SERC along with the copy of tariff petition;
- iii) Letter of State Govt. giving concurrence for migration from existing scheme to JNNSM;
- iv) Consent of Distribution Utility to purchase the entire Solar Power along with unallocated power through NVVN as per JNNSM;
- v) Letter from STU confirming connectivity with their grid substations at 33 kV and above indicating location of the substation;
- vi) Certificate from State Govt. Authority for registration of land or leasehold rights for setting up the plant;
- vii) Affidavit from project developer listing the total land acquired for the power project;
- viii) Letter from State/Local Authority for sanction of required water (in case of Solar Thermal Project).
- ix) Details of Promoter Shareholding duly certified by the Company Secretary;
- x) Detailed Project Report;
- xi) Environmental clearance from State Pollution Control Board.

NOW THEREFORE THIS MEMORANDUM OF UNDERSTANDING WITNESSETH AS FOLLOWS:

1.0 Terms and Conditions

1.1 After signing of this MOU, NVVN shall approach Ministry of Power for allocation of equivalent MW of power out of unallocated power of NTPC coal stations. Thereafter, NVVN will tie-up for sale of bundled power with Distribution Utility as envisaged in the National Solar Mission.

1.2 After firming up the arrangements for sale of power to be purchased from Project Developer, NVVN shall enter into Power Purchase Agreement (PPA)

with Project Developers in line with model PPA provided to the Project Developer.

2.0 Tariff

2.1 The tariff for the sale of electricity by the Project Developer to NVVN shall be as per the relevant CERC Regulations/orders for sale of power from Solar PV/Thermal Power Plants.

3.0 Performance Guarantee

3.1 The Project Developer has provided a Performance Guarantee of Rs.....lakh as per migration guidelines, issued by(Bank) dated valid till.....in favour of NVVN. Bank Guarantee for the balance amount of Rs..... lakh shall be provided by the Project Developer at the time of signing of PPA.

3.2 It is agreed that, in case, NVVN offers to execute the PPA with the Project Developer and if the Project Developer refuses to execute the PPA within the stipulated time period, NVVN shall be entitled to encash the Bank Guarantee with seven days notice. In case of failure of NVVN to offer execution of PPA, the Project Developer shall have the right to withdraw Bank Guarantee provided to NVVN and NVVN shall release the Bank Guarantee within seven days of receipt of such request from the Project Developer.

3.3 On execution of PPA by NVVN and Project Developer, the Bank Guarantee amounting to Rs.....furnished as Performance Guarantee shall be valid for period of fifteen months for PV projects and thirty one months for Solar Thermal projects from the date of signing of PPA. NVVN shall be entitled to encash the Bank Guarantee, if the Project is not commissioned as per the schedule given in the PPA.

3.4 The Project Developer hereby undertakes that the Project shall achieve financial closure within 3 months of the date of signing of PPA. It is also understood that as per MNRE guidelines, no extension shall be granted for achieving this milestone. However, if the project is not able to achieve the financial closure by the stipulated date, the Project shall be removed from the list of the projects eligible for migration with forfeiture of the entire Bank Guarantee.

3.5 As per the guidelines for migration issued by MNRE on 9th February,2010, no change in the controlling shareholding in the Project Developer shall be permitted from the date of signing of MOU till execution of PPA. The Project Developer undertakes to abide by the same.

4.0 Commitment

4.1 The Project Developer on signing this MOU hereby undertakes that it shall not be taking up this project under any other scheme of Govt. of India or State Govt.

5.0 Validity

5.1 This MOU shall come into force as soon as it is signed for all purposes and intents and shall remain valid till signing of PPA or return of Bank Guarantee or encashment of Bank Guarantee, whichever is earlier.

6.0 Notice

Any notice to be given under this MoU shall be in writing and shall be deemed to have been duly and properly served upon the Parties hereto if delivered against acknowledgement or by registered mail with acknowledgement due, addressed to the Parties herein at the following addresses or such changed addresses as will be duly notified by the Parties from time to time.

Address

Attention :

Shri
NTPC Vidyut Vyapar Nigam Limited .
SCOPE Complex. Core-3, Floor-7
7, Institutional Area; Lodhi Road
New Delhi – 110 003
Telephone No. 011 – 24361929, Fax No : 011 - 24362009

Attention :

Shri
Address of SPDs
Telephone No.

7.0 Force Majeure

Neither party shall be liable for any claim for any loss or damage whatsoever arising out of failure to carry out the terms of the Agreement to the extent that such a failure is due to force majeure events which shall include but not limited to events such as war, rebellion, mutiny, civil commotion, riot, strike, lock-out, blockade, forces of nature, accident, act of God or any other such reason beyond the control of concerned party. Any party claiming the benefit of this clause shall reasonably satisfy the other party of the existence of such an event and give written notice within a reasonable time to the other party to this effect.

8.0 Entire Understanding

This MOU contains the entire understanding between the parties and supersedes all prior or contemporaneous oral or written agreements, commitments understanding or communication with respect to the subject matter thereof.

9.0 **Jurisdiction**

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Courts of Delhi shall have exclusive jurisdiction in respect of any dispute arising out of this MOU.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED AND DELIVERED THIS MOU AS OF THE DATE FIRST ABOVE WRITTEN AT.....

For and on behalf of
NTPC Vidyut Vyapar Nigam Limited

Witness:

- 1.
- 2.

Signature with seal

For and on behalf of
(Migrated Solar Power Developer)

Witness:

- 1.

Signature with seal