

**REQUEST FOR PROPOSALS
FOR THE ESTABLISHMENT OF
SOLAR PV POWER PLANT
ON BUILD, OWN AND OPERATE BASIS**

International Competitive Bidding (ICB)

**Vavunathivu Solar PV Power Project
(10 MWp)**

Tender No: CEB/EPT/SP/RFP2

June 2017

VOLUME III

**MODEL
POWER PURCHASE AGREEMENT**

Revision 0

Ceylon Electricity Board
No. 50, Sir Chittampalam A. Gardiner Mawatha, COLOMBO 00200,
SRI LANKA



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**AGREEMENT FOR PURCHASE OF ELECTRICAL ENERGY
BETWEEN
THE CEYLON ELECTRICITY BOARD
AND
xxxxxxx (Pvt) Ltd
..... Solar PV Power Project
Installed Capacity 10,000 kW_p
Ref: DGM (EPT)/SP/xxxx**

This Agreement is made and entered into at Colombo this **xxth day of xxxx 201x** by and between the **Ceylon Electricity Board**, a body corporate duly constituted by Act No. 17 of 1969 and having its head office at 50, Sir Chittampalam A. Gardiner Mawatha, Colombo in the Democratic Socialist Republic of Sri Lanka (hereafter referred to as "**CEB**"), and **xxxxxx (Private) Limited** a limited liability company duly incorporated in Sri Lanka under the Companies Act No. 7 of 2007 and having its Registered office at **xxxxxxxxxxxxxxxx** (hereafter referred to as "**Seller**" which term or expression where the context so requires means and includes the said **xxxxxx (Private) Limited** and its successors and assigns, as permitted hereby).

WHEREAS, the Seller has submitted a proposal for sale to CEB of electrical energy from a small power production facility in Sri Lanka; and

WHEREAS, the Seller's project and tender of electrical energy for sale qualifies under the Small Power Producer Procurement Scheme of CEB, which is approved by the Government; and

WHEREAS, CEB may purchase electrical energy under applicable law and regulations of the Democratic Socialist Republic of Sri Lanka; and

WHEREAS, the Seller is a company duly incorporated and validly existing under the laws of the Democratic Socialist Republic of Sri Lanka, has all requisite corporate and legal authority to execute this Agreement, and is permitted by applicable laws and regulations to sell independently produced power; and

WHEREAS, the Seller wishes to sell and to deliver, and CEB wishes to purchase and to accept delivery of, the offered electrical energy to be produced by the Seller from the Facility described at Appendix B, all pursuant to the terms and conditions as set forth in this Agreement;

WHEREAS, CEB is a body corporate that is not able to assert any defences of sovereign immunity to enforcement of contracts with private entities.

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, the Seller and CEB hereby agree as follows:

ARTICLE 1 DEFINITIONS

When used with initial capitalization, whether in the singular or in the plural, the following terms shall have the following meanings:

"Agreement" means this document, including its appendices and all documents, regulations, or standards incorporated by reference, as such may be amended from time to time.

"Appendix A" means the appendix to this document defining the tariff applicable for sale of energy output to CEB by *(name of the seller)*

"Appendix B" means the appendix to this document setting out key specifications of the Seller's Facility

"Appendix C" means the appendix to this document defining the technical standards for testing the Facility for the purpose of demonstrating whether or not the Facility satisfies the grid connection requirements of CEB.

"Commercial Operation Date" means the following the day on which:

- (1) Subject to Article 4.3, the Seller notified CEB that electrical energy deliveries can commence, and
- (2) The Seller has commenced deliveries of electrical energy to CEB.

"Contract Year" means the twelve-month period beginning with the Commercial Operation Date and each succeeding twelve-month period.

"Due Date" means forty five (45) days after the date on which CEB reads its meters installed at the Metering Point for the purpose of determining the amount of Energy Output of the Facility for the prior period, which reading shall occur pursuant to Article 5.2(a).

"Emergency" means a condition or situation, which is likely to result in disruption of service to CEB's customers, or is likely to endanger life or property.

"Energy Input" means the amount of Electrical Energy import to the facility from CEB Grid under the agreement entered into between the Seller and the CEB.

"Energy Output" means the amount of electrical energy generated by the Facility and delivered to CEB under this Agreement.

"Facility" means all of the Seller's equipment and appurtenant land at a single site or parcel of land utilised to produce and deliver Energy Output, including but not limited to, Seller's generation, transmission, metering, and protective equipment.

"Firm Annual Energy Output" shall have the meaning ascribed to that term in Clause 2.2 (d)

"Government" means the Government of the Democratic Socialist Republic of Sri Lanka.

"Grid Point" means the connection stud of the last facility side equipment located on the gantry; depicted as "G" on the diagram in Exhibit A

"IEC Standards" means the relevant standards published by International Electrotechnical Commission of No. 3, rue de Varembe, P.O.Box 131,CH-1211 Geneva, Switzerland.

"Prudent Utility Practices" means accepted international practices, standards and engineering and operational considerations, including but not limited to, manufacturers' recommendations and the exercise of reasonable skill, diligence, foresight, and prudence that would be exercised or generally followed in the operation and maintenance of facilities similar to the Facility.

"Interconnection Guidelines" means the CEB Guide for Grid Interconnection of Embedded Generators, Sri Lanka (2000) or any subsequent version of this or a reasonable and prudent substitute guidance accepted by CEB or standard adopted by CEB to apply to interconnection of the facilities of Small Power Producers.

"Metering Point" means the point where CEB metering of Seller's Energy Output and Energy Input to the seller initially takes place and where title to electricity delivered by Seller passes to CEB. The Metering Point is shown as Point M on Exhibit A.

"Must Run Facility" means the Seller has operating control over the amount and timing of electrical energy to be generated by the Facility, subject only to Emergencies and such directions as may be issued by CEB for the protection of its electrical system.

"MW" means a megawatt or 1000 kilowatts.

"Month" or "month" means a calendar month.

"Party" means the Seller or CEB.

"Prime Rate" means the prime rate as announced from time to time by the Central Bank of Sri Lanka for Rupee amounts, and in force on such date and, for

the purpose of this Agreement, a change in any such rate shall be effective on, or from date on which it is announced or, if such announcement provides for such change to come into effect on a later date, on and from such later date.

"Regulator" means the electricity regulatory authority of the Democratic Socialist Republic of Sri Lanka, the Public Utilities Commission of Sri Lanka (PUCSL) or his delegate.

"Scheduled Outage" means an outage which is scheduled in advance for the purpose of performing maintenance on the Facility.

"Small Power Producer" means the owner or operator of the Facility

"Transmission Line" means the transmission line which connects the generators to the Grid Point enabling the Seller to deliver electrical energy generated by the Facility to the CEB.

"Termination Point" means the connection stud of the last facility side Load Break Switch depicted as "T" on the diagram in Exhibit A. (also marked in Annex C of Volume I)

"Unscheduled Outage" means an outage, which is not a Scheduled Outage.

ARTICLE 2 SALE AND PURCHASE OF ENERGY OUTPUT

2.1 Sale and purchase of Energy Output

The Seller shall deliver and sell, and CEB shall accept and purchase the electrical Energy Output generated by the Facility of the Seller, which Seller shall maintain its status as a Small Power Producer and which Energy Output shall be as specified in Appendix B for Quality of Electrical Energy at the Termination Point.

2.2 Obligations of the Seller

- a) The Seller shall notify CEB in writing at least 30 days prior to synchronising or operating the Seller's generators in parallel with the CEB grid system, and co-ordinate such commencement of operation with CEB. Seller if required may purchase energy from CEB National Grid ("Energy Input") after signing an agreement with the relevant provincial office of the CEB.
- b) Prior to the Commercial Operation Date and thereafter on or before 1st December of each subsequent Year, the Seller shall furnish to CEB an annual forecast that includes the following: (i) anticipated monthly generation (kWh), mean solar irradiance level (W/m^2), available capacity (kW), and (ii) Scheduled Outages for each year; provided,

however, the Seller shall have no liability to CEB in the event that actual amount of electrical energy delivered to CEB, available capacity or the times of said delivery, differ from the amounts or times shown in said forecasts. The Seller shall provide the CEB following data monthly: (i) half hourly irradiance level (W/m²) measured at site, (ii) half hourly energy generation by each s, throughout the Term of this Agreement, in a suitable electronic format.

- c) The Seller shall maintain the Facility according to Prudent Utility Practices to ensure that the installed capacity, as stated in Appendix B (Installed Capacity expressed in kW) of the Facility is available throughout the Term.
- d) The Seller shall have eight-year period after the Commercial Operation Date to determine the firm annual Energy Output for the remaining Years of the Term. Ninety [90] percent of the average of actually achieved annual Energy Output of the Facility in the first eight [8] Years after the Commercial Operation Date shall be taken as the firm annual Energy Output for the rest of the Term of this Agreement ("**Firm Annual Energy Output**").
- e) The Seller shall notify CEB one month in advance of Scheduled Outages, including a non-binding estimate of expected length, and as soon as possible, of any Unscheduled Outages, including a non-binding estimate of expected length.
- f) Notwithstanding that the Seller's Facility is a Must Run Facility, whenever CEB's system or the systems with which it is directly interconnected experience an Emergency, or whenever it is necessary to aid in the restoration of service on CEB's system or on the systems with which it is directly or indirectly interconnected, CEB may, in its sole discretion, curtail or interrupt the taking of all or a portion of Energy Output thereunder, provided such curtailment or interruption shall continue only for so long as it is reasonably necessary under Prudent Utility Practices.
- g) The Seller shall comply strictly with Interconnection Guidelines and all CEB Standards applicable to interconnection of similar facilities. The Seller shall make all arrangements at its own expense necessary to make available the Energy Output to CEB at the Grid Point. CEB shall cooperate with the Seller in these arrangements.

- h) The Seller shall obtain all the necessary permission, clearances for construction and operation of the facility. The Seller should obtain the permit from the Sri Lanka Sustainable Energy Authority prior to the Commercial Operation of the power plant.

2.3 CEB's obligations

- a) CEB's obligations to make payments as described herein, shall continue during the term of this Agreement, and shall only be excused in the event of Force Majeure arising under Article 6 herein.
- b) Because the Seller's Facility is a Must Run Facility, CEB shall use its best efforts to coordinate and to minimize any periods of interruption, reduction, refusal, or curtailment as provided for in this Article with the periods of previously Scheduled Outage at the Facility. CEB shall, prior to initiating any interruption, reduction or refusal of Energy Output under this Article, use its best efforts to provide the Seller with a minimum of twenty-four (24) hours advance notice, such notice to include an explanation of the cause of the interruption, and an estimate of the start and duration of the interruption.
- c) CEB shall not assert the Seller's liability for, and the Seller shall not be liable to CEB for, any direct damages resulting from the Seller's inadvertent or accidental and non-negligent failure in meeting the Energy Output. Without CEB's prior written approval, the said limitation of the Seller's liability shall not apply where the Seller deliberately reduces Energy Output for the purpose of selling or attempting to sell electrical energy to any third party, or for the purpose of producing any other form of energy capable of being produced at the Facility.

2.4 Interruptions

- a) CEB may interrupt, reduce or refuse to purchase and accept delivery of all or a portion of Energy Output from the Facility, to the extent that such interruption, reduction or refusal is necessary, in CEB's sole discretion, under Emergencies or under Prudent Utility Practices, in order for CEB to install equipment, make repairs, replacements, investigations or inspections of CEB's electrical network.
- b) Even though the Seller's Facility is a Must Run Facility, CEB shall not be obligated to purchase or take Energy Output if the Facility is not operated and maintained in a manner consistent with Prudent Utility Practices in accordance with Article 4.

ARTICLE 3 TERM; TERMINATION

3.1 Term

As of the date and when signed below by all Parties, this Agreement shall commence and, subject to the termination provisions set forth in this Agreement, shall continue for a period of **twenty (20)** years, beginning on the Commercial Operation Date. Notwithstanding the foregoing, the applicable provisions of this Agreement shall remain in effect after termination hereof to the extent necessary to provide for final billings, billing adjustments, payments, and effectuation of all rights hereunder.

3.2 Default

(a) Events of Default hereunder shall be each or any of the following events:

- (i) The Seller fails to achieve the milestones set forth in Article 11(b).
- (ii) The Seller fails to complete, abandons, or cancels construction of the Facility.
- (iii) The Seller, during the period from Contract Year nine to Contract Year fifteen fails to deliver to the CEB an aggregate Energy Output equal to seven times the average Energy Output delivered during the period from Contract Year one to Contract Year eight;
- (iv) The adjudged bankruptcy, dissolution, or liquidation of either Party, in which case the bankrupt, dissolved, or liquidated Party shall be deemed to be the Party in default hereunder.
- (v) Either Party fails to perform or observe any of the terms, conditions, or provisions of this Agreement and the appendices hereto, and such failure shall not be rectified or cured within sixty (60) days after written notice thereof from the non-defaulting Party, provided, however, that if such failure cannot reasonably be cured within such sixty (60) day period, such further period, not to exceed two years after written notice thereof, as reasonably shall be required to effect such cure, provided that the defaulting Party commences within such sixty (60) day period to effect such cure and at all times thereafter proceeds diligently to complete such cure as quickly as possible, subject to the provisions of Article 6.
- (vi) Without reasonable excuse, the failure of any party to make an undisputed payment when due and non-payment continues for more than ninety (90) days.
- (vii) The compulsory expropriation, acquisition or nationalisation of the material assets or equity of the Seller by any instrumentality of the Government, or the dissolution or reorganisation of CEB such that it cannot perform its obligations hereunder.

- (viii) Either Party contests and denies the enforceability of this Agreement, in which case the Party contesting enforceability shall be deemed to be the Party in default hereunder.

(b) Termination

Upon the occurrence of an Event of Default, in each and every case, the non-defaulting Party shall give 30 days written notice to the defaulting Party and may pursue any remedies provided for in this Agreement or under law, and may terminate this Agreement by giving 60 days written notice to the other Party, provided that should CEB claim any Event of Default against the Seller, it shall notify and afford the Seller's lenders reasonable time, access and opportunity to remedy the event giving rise to the default, and shall cooperate with the Seller's lenders to this end.

ARTICLE 4 CONSTRUCTION; INTERCONNECTION; OPERATION; METERING

4.1 Approvals

- a) The Seller shall obtain and remain in compliance with all governmental and other environmental and other approvals, licenses, permits, and certificates necessary for the construction, and operation of the Facility for the duration of this agreement.
- b) The Seller shall obtain all licenses, permits, approvals and registrations necessary, imposed or required by the Government of Sri Lanka and/or any other agency or any local authority in Sri Lanka and shall comply with all legal requirements relating thereto, to enable the Seller to construct, develop, maintain and operate the Facility in accordance with this Agreement.
- c) The Seller shall obtain all customs clearances and approvals for the importation and transportation of all equipment necessary for the design, and construction of the Facility.
- d) The Seller shall obtain all necessary visas and work permits from Government agencies or departments in Sri Lanka to enable the Seller's expatriate officers and staff to work in Sri Lanka for the duration of their assignment.

4.2 Standards

- a) CEB's standards and requirements for equipment, transmission, and distribution including the Interconnection Guidelines shall apply to the Facility and to the Transmission Line.

- b) The Facility shall be operated by the Seller in a manner consistent with Prudent Utility Practices.

4.3 Testing

Upon completion of construction, the Facility shall be tested by and at the expense of the Seller as per with the technical standards set out in Appendix C hereof, and incorporated by reference herein. CEB shall be entitled to witness testing procedures. The Parties shall meet and agree to the procedures, standards, protective settings and a program for the testing of the Facility in accordance with the Appendix C hereto. CEB undertakes to accept and pay for all electrical output generation during any such testing. The Seller shall certify in writing to CEB as provided in Article 10 (h) (2), that the Facility conforms to the specifications for Quality of Electrical Energy at the Termination Point set out in Appendix B and incorporated by reference.

4.4 Inspection of Seller's equipment

Upon reasonable prior notice, CEB has the right to inspect the Seller's equipment of the Facility to ensure compliance with Prudent Utility Practices and the Interconnection Guidelines. Such access shall not interfere with the Seller's normal business operations. If, in the opinion of CEB, the Seller's equipment is not being so operated and maintained, CEB shall notify the Seller of any such discrepancies which the Seller shall correct promptly. Until such correction, CEB is not required to accept and pay for Energy Output.

4.5 Not used

4.6 Meters

- a) The CEB shall procure, own and maintain the all (main and backup) metering equipment ("Metering Equipment") employed for purposes of measurement and billing under this Agreement, at the cost and expense of the Seller. The Metering Equipment will be located at the Metering Point depicted as "M" in Exhibit A. The Metering Equipment shall be sealable.
- b) The Seller shall provide CEB access to the Facility at all reasonable times upon reasonable prior notice for the purpose of examining the operation of the Facility or other purposes reasonably related to performance under the terms of this Agreement. Such access shall not interfere with the Seller's normal business operations. All CEB personnel shall follow all Facility safety and procedural rules while on the Facility premises.

- c) The Metering Equipment shall be tested at least annually, at the Seller's expense, in accordance with Prudent Utility Practices. At any reasonable time, either Party may request a test of the accuracy of any metering equipment. Each Party shall bear the cost of a test requested by it. The results of meter calibrations or tests shall be available for examination by the Parties at all reasonable times. If, at any time, any metering equipment is found to be inaccurate by more than point five percent (0.5%), CEB shall cause such metering equipment to be made accurate or replaced as soon as possible. Each party shall be present for breaking the seals, testing, recalibration and sealing of meters. If either Party believes that there has been a meter failure or stoppage, it shall immediately notify the other. CEB shall then investigate and take corrective action if so required.
- d) Testing and calibration of meters, and any verification of meter accuracy, shall be performed pursuant to IEC Standards, by CEB or by a mutually agreed upon qualified independent third party. Calibration shall occur before use of the meters. All meters shall be sealed and locked by CEB after calibration. The Seller shall be notified of calibration, and have the right to be present at such testing and calibration.
- e) Any supplemental electrical energy purchased by Seller shall be pursuant to normal CEB tariffs for that category and amount of power.

4.7 Transmission Line

Seller shall design and construct the Transmission Line up to Grid Point as per CEB technical standards and IEC Standards at the cost and expense of the Seller so as to be available to transmit the electrical energy generated by the Facility as of the Commercial Operation Date.

4.8 Protective Apparatus

- a) Seller shall install at its own expense such protective apparatus as reasonably required by CEB to protect from damage the CEB system from fluctuations or variations in voltage, power, current and frequency of the Energy Output, and so as to satisfy the Specification of the Seller's Facility for Quality of Electrical Energy at the Termination Point set out in Appendix B herein.
- b) CEB shall have the right to review the design of all equipment of the Seller as to the adequacy of the protective apparatus provided at the Facility. The Seller shall be notified of the results of such review by CEB in writing within thirty (30) days of the receipt of all specifications related to the proposed design. Any flaws perceived by CEB in the proposed design shall

be described in the written notice. Any additions or modifications required by CEB shall be incorporated by the Seller.

ARTICLE 5 DELIVERY AND ACCEPTANCE OF ENERGY OUTPUT; PAYMENT

5.1 Title to Energy

CEB shall accept all Energy Output that substantially satisfies the specification of the Seller's Facility for Quality of Electrical Energy at the Termination Point set out in Appendix B herein, and title to such Energy Output shall pass from Seller to CEB at the Metering Point. Where these Specifications are not substantially satisfied, CEB may reject such Energy Output where it could reasonably damage CEB's system, by disconnecting the Facility from the CEB's system.

5.2 Billing

- a) CEB shall read its meters provided as in Article 4.6 (a) at the end of each month for determination of the electrical energy delivered to and accepted by CEB under the terms of this Agreement, and shall supply the results of such meter readings (including time and date of the reading) to the Seller within fifteen (15) days following the reading thereof.
- b) CEB shall pay the Seller on or before the Due Date the Tariff as calculated pursuant to the provisions of Appendix A for all Energy Output that is not disputed in good faith pursuant to Article 8. Any undisputed amounts unpaid after the Due Date shall bear interest at the Prime Rate compounded on a monthly basis. Either party may dispute any billing error, amount, or payment by written notification to the other Party within one (1) year of receipt of a meter reading or other alternative billing information pursuant to subpart (d) of this section, whether or not payment has been made by CEB. If dispute resolution is in favour of the Seller, CEB shall pay the disputed amount plus interest at the Prime Rate, compounded monthly, from the Due Date to the date payment is made. If resolution is in favour of CEB, the Seller shall refund any payment received of the disputed amount plus interest at the Prime Rate, compounded monthly, from the original Due Date to the date the refund is made. All such payments shall be due within fifteen (15) days of the date of such resolution.
- c) In the event that any data required for the purpose of determining payment hereunder are unavailable when required, such unavailable data

may be estimated by CEB, subject to any required adjustment based upon actual data in the next subsequent payment month.

- d) To determine the amount of electrical energy delivered and accepted, billing and payment will be based on the first available of the following metering or estimation options in order of preference:
 - i. The primary (main) CEB meter measurement(s) when that CEB meter satisfies for the period at issue the accuracy standard in Article 4.6(c); or
 - ii. The backup CEB meter measurement when that meter satisfies the accuracy standard in Article 4.6(c) for the period of issue.
 - iii. Where all above meters and sub meter fail to accurately register electrical energy delivered and accepted, the average monthly electrical energy delivered and accepted during the previous twelve (12) billing periods prior to meter failure (or fewer months if the Facility is less than twelve months from the Commercial Operation Date), as adjusted or normalized for outages, shall be used to estimate electrical energy delivered and accepted by the Facility for the period of issue.
- e) CEB may set off amounts owed by CEB to the Seller regarding the Facility against amounts owed by the Seller to CEB regarding the Facility under this Agreement.
- f) The Seller may interrupt, reduce or refuse to make available Energy Output to CEB only to the extent that the Seller reasonably determines that such interruption, reduction, or refusal is necessary in order to install equipment in, make repairs, replacements, investigations and inspections of, or perform maintenance on the Facility which directly affect, the Energy Output. The Seller shall, prior to initiating any interruption, reduction or refusal of Energy Output, use its best efforts to provide CEB a minimum of twenty-four (24) hours advance notice, such notice to include an explanation of the cause of the interruption, and an estimate of the start and duration of the interruption.
- g) All payments made under this Agreement shall be calculated as per the Appendix A of this agreement. Any applicable Value Added Tax or similar Sales Taxes that is payable will then be added to such payments.
- h) CEB shall supply and sell electricity to the Facility under normally applicable terms, conditions, and rates for the category of service and demand of the Facility's usage of power.

ARTICLE 6 FORCE MAJEURE

- a) For purposes of this Agreement, the term "Force Majeure" shall mean any of the following events not within the reasonable control and not due to the failure, negligence or persistent disregard of the Party whose performance is adversely affected or becomes impracticable, and who chooses to invoke Force Majeure:
- i. Action of a court or public authority having or purporting to have jurisdiction or restraints by a court or regulatory agency;
 - ii. A break or fault in CEB's transmission or distribution systems or failure of CEB's or the Seller's transformers, switches, or other equipment necessary for delivery and receipt of electrical energy by CEB from the Seller;
 - iii. Any Act of God, fire, explosion, excessive rains, floods, tidal wave, epidemic, hurricane or earthquake;
 - iv. Any other cause, whether or not similar thereto, beyond the reasonable control of, and without the fault or negligence of, the party claiming Force Majeure.
 - v. Civil disturbance, insurrection, rebellion, hostilities, public disorder or public disobedience, sabotage, riot, embargo, blockade, quarantine, labour dispute, strikes, lockouts, acts of war or the public enemy whether or not war is declared;
 - vi. Nationalisation, expropriation, or confiscation of the assets or authority of CEB by any authority of the Government.
- b) Any obligations of either Party which arose before the occurrence of the Force Majeure event causing non-performance shall not be excused as a result of the occurrence of a Force Majeure event. The late payment of money owed is not excused by Force Majeure. No event resulting from a failure of a Party to operate and maintain their respective plant and equipment accordance with Prudent Utility Practices shall be deemed to be an event of Force Majeure.
- c) No default shall occur, provided that the adversely affected non-performing Party invoking Force Majeure shall:

- i. Provide prompt notice in writing to the other Party of the occurrence of the Force Majeure, giving an estimation of its expected duration and the probable impact on the performance of its obligations hereunder, and submitting good and satisfactory evidence of the existence of the Force Majeure,
 - ii. Exercise all reasonable efforts to continue to perform its obligations hereunder,
 - iii. Expeditiously take action to correct or cure the Force Majeure and submit good and satisfactory evidence that it is making all reasonable efforts to correct or cure the Force Majeure,
 - iv. Exercise all reasonable efforts to mitigate or limit damages to the other Party, to the extent such action will not adversely affect its own interests, and
 - v. Provide prompt notice to the other Party of the cessation of the Force Majeure.
- d) If a Party is rendered wholly or partly unable to perform its duties and obligations under this Agreement because of a Force Majeure event, that Party shall be excused to the extent necessary from whatever performance is affected by the Force Majeure event to the extent so affected.
- e) Notwithstanding the foregoing, if a Party is prevented from substantially performing its obligations under this Agreement for a period of three (3) years due to the occurrence of a Force Majeure event, the other Party may terminate the Agreement by ninety (90) days written notice given any time thereafter to the non performing Party, unless substantial performance is resumed prior to the expiration of the ninety (90) day period. CEB may not terminate the Agreement under this part due to a Force Majeure event described in Article 6(a) items (vii) or (viii).

**ARTICLE 7 RELATIONSHIP OF PARTIES; LIMITATION OF LIABILITY;
INDEMNIFICATION**

- a) The Parties do not intend to create any rights, or grant any remedies to, any third party beneficiary of this Agreement.
- b) Nothing in this Agreement shall be construed as creating any relationship between the Parties other than that of independent contractors for the sale and purchase of electrical energy generated at the Facility. No agency relationship of any kind is created by this Agreement.
- c) Notwithstanding subpart (d) hereof or any other provision of this Agreement to the contrary, neither CEB nor the Seller nor their respective officers, directors, agents, employees, parent, subsidiaries or affiliates shall be liable or responsible to the other party or its parent, subsidiaries, affiliates, officers, directors, agents, employees, successors or assigns, or their respective insurers, for incidental, indirect or consequential damages, connected with or resulting from performance or non-performance of this Agreement, including, without limitation, claims in the nature of lost revenues, income or profits (other than payments expressly required and properly due under this Agreement).
- d) Each Party shall defend, indemnify and save the other party, its officers, directors, agents, employees and affiliates, harmless from and against any and all claims, liabilities, actions, demands, judgements, losses, costs, expenses (including reasonable attorney's fee), suits, actions or damages arising by reason of bodily Injury, death, or damage to property sustained by any person or entity (whether or not a party to this Agreement):
 - i. caused by or sustained on facilities owned or controlled by the Party, except to the extent caused by an act of negligence or wilful misconduct: by an officer, director, subcontractor, agent or employee of the other Party; or
 - ii. caused by an act of negligence or wilful misconduct of the Party or by an officer, director, subcontractor, agent or employee of the Party.
- e) If CEB and the Seller are both determined to have been negligent in a manner addressed by subpart (d) above, the obligations of the Seller and CEB shall be appropriately adjusted based on the percentage of the responsibility of each Party for such negligence.

- f) The Seller shall accept all liability and release CEB from and indemnify CEB against any liability for faults or damage to the CEB electrical system and the public, as a result of the operation of the Seller's equipment.

ARTICLE 8 DISPUTE RESOLUTION

- a) The parties agree that if there is any dispute or difference between them arising out of the Agreement or in the interpretation of any of the provisions thereof they shall endeavour to meet in an effort to resolve such dispute by discussion, within 30 days (Conciliation Period) of such dispute arising, failing such resolution then the parties in dispute shall refer at their costs the dispute to a mutually agreed expert with experience in the field of Power generation or related field or call upon the Government of Sri Lanka to appoint an expert in the field of Power generation or related field to resolve the matter within 60 days from the conciliation period, where the difference or dispute involves a claim in money this Article shall apply where the claim is less than Sri Lanka Rupees 1,000,000.00 . Where such dispute is not resolved as aforesaid at the end of ninety (90) days after the conciliation period notwithstanding the fact that the claim is less than Rs. 1,000,000.00 then the provisions of 8(b) shall apply.
- b) Any dispute that is not resolved under 8(a) above may be submitted by either party to arbitration for final settlement under the Arbitration Act No. 11 of 1995.
- c) The performance of the contract may continue during arbitration proceedings as far as possible.

ARTICLE 9 DELEGATION AND ASSIGNMENT

This Agreement shall inure to the benefit of and bind the respective successors, assigns, and delegates of the Parties. No assignment or delegation by the Seller of any of its rights, duties, or obligations here under shall be made or become effective without the prior written consent of CEB in each case being obtained, which consent shall not be unreasonably withheld by CEB or its successors in interest, except that without CEB consent the Seller may (1) delegate or assign some or all of its rights and duties to an affiliate whose principal functions are to hold the ownership interest in or to operate the Facility, or(2) assign or delegate to an unrelated entity for purposes of financing, obtaining equipment, or construction of the Facility. The Seller shall promptly notice CEB in writing of any assignment or delegation that it makes.

ARTICLE 10 MISCELLANEOUS PROVISIONS

- a) This Agreement may not be modified or amended except in writing signed on behalf of both Parties by their duly authorized officers.
- b) This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof, and all previous agreements, discussions, communications and correspondences with respect to the subject matter hereof are superseded by the execution of this Agreement.
- c) The interpretation and performance of this Agreement shall be in accordance with and controlled by the laws of the Democratic Socialist Republic of Sri Lanka.
- d) Each Party represents and warrants to the other that the execution and performance of this Agreement does not conflict with any rules, regulations or requirements binding that Party, and that there is no legal or administrative action pending that prohibits or impairs the Party from performing under the Agreement.
- e) There shall be no implied waivers under this Agreement. The failure of either Party to require compliance with any provision of this Agreement shall not affect that Party's right to later enforce the same. It is agreed that the express waiver by either Party of performance of any of the terms of this Agreement or of any breach thereof shall not be held or deemed to be an implied waiver by that Party of any subsequent failure to perform the same or any other term or condition of this Agreement or of any breach thereof.
- f) If any clause of this Agreement is ruled invalid by a court of competent jurisdiction, it shall not affect the remainder of the Agreement if it can be construed to effect its essential purpose without the invalid clause.
- g) The headings in this Agreement are descriptive, and are not intended to affect the interpretation or meaning of the Agreement.
- h) Any notice, invoice, or other communication which is required or permitted by this Agreement, except as otherwise provided herein, shall be in writing and delivered by personal service, telecopy, or mailed postage prepaid, properly addressed as follows:
 - i. In the case of the Seller to: the person, the Seller, and address as indicated on the signature execution line below.

- ii. In the case of CEB to: General Manager, Ceylon Electricity Board, No.50, Sir Chittampalam A Gardiner, Mawatha, Colombo 2, Sri Lanka.

Another address or addressee may be specified in a notice duly given as provided. Each notice, invoice or other communication which shall be mailed, delivered or transmitted in the manner described above shall be deemed sufficiently given and received for all purposes at such time as it is delivered to the addressee or at such time as delivery is refused by the addressee upon presentation.

ARTICLE 11 FIRST REFUSAL; MILESTONES

a) First Refusal

At the conclusion of the Term of this Agreement, CEB shall have the right of first refusal on terms identical to those offered by a third party to the Seller, to purchase any electrical energy to be sold from the Facility after the term of this Agreement. The Seller shall inform CEB in writing of any such terms offered by a third party. CEB shall sixty (60) days thereafter to exercise its right of first refusal, if at all.

b) Milestones

- i. The Seller shall have a period of **eleven (11) months** for receipt of all permits and approvals necessary for land acquisition and use; construction, and operation of the Facility, from the date hereof.
- ii. The Seller shall have a period of **one (01) month** after achieving the Milestone (i) above, to achieve the Commercial Operation Date.

In witness whereof the Parties have executed this Agreement and one other of the same tenor, by affixing their respective common seals, as of the **xxth** day of the month of **xxxxxxx 20xx.**

CEYLON ELECTRICITY BOARD			THE SELLER		
	Seal			Seal	
1	By		1	By	
	Name			Name	
	Title	Chairman		Title	Director
2	By		2	By	
	Name			Name	
	Title	Vice Chairman		Title	Director
	Witness 1			Witness 1	
	Witness 2			Witness 2	

APPENDIX A
Tariff for Delivery of Energy Output
Calculation of the Tariff for Solar Technology

1. Payment for Energy Output

Payments to be made to the Seller under this Agreement will be as per the following flat tariff for the entire contract period. There will not be any escalation to the applicable Tariff during the entire Contract period.

Contract Year	Tariff (Rs/kWh)
1 - 20	<i>[tariff payable]</i>

APPENDIX B

SPECIFICATIONS OF THE SELLER'S FACILITY

NAME OF FACILITY	:	xxxxxxxxx SPP DGM(EPT)/SP/
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LOCATION OF FACILITY:

Postal Address	:	
Telephone	:	
Route	:	Map is attached

TYPE OF SOURCE	:	Solar Power
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TYPE OF POWER GENERATION TECHNOLOGY	:	Solar Photovoltaic
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SPECIFICATION OF THE FACILITY:

Energy Source ()	:	Solar Power
Prime Mover (indicate capacities in kW)	:	
Number of Units	:	

GENERATOR SPECIFICATION:

Type	:	Solar PV Panels
No. of Generating Units	:	
Output Voltage	:	
Power Rating (indicate rates in kVA)	:	
Power Factor	:	
Method of output power Control	:	
Method of output voltage Control	:	

TRANSFORMER(S) SPECIFICATION:

Type	:	
Number of Transformers	:	
Unit Capacity (kVA)	:	
Primary / Secondary Voltage	:	

TRANSMISSION LINE SPECIFICATION

Conductor Type	:	
Number of Circuits	:	
Route Length	:	
Tower Type	:	

PROTECTION EQUIPMENT	:	As specified in the CEB Guide for Grid Interconnection of Embedded Generator (2000)
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QUALITY OF ELECTRICAL ENERGY AT THE TERMINATION POINT

Voltage	:	33 kV
Maximum Power Capacity (indicate in kW)	:	10,000 kW
Maximum Line Current	:	
Frequency	:	50 Hz
Power Factor	:	

ESTIMATED ANNUAL ENERGY OUT PUT

a. Maximum estimated annual Energy Output

Month	kWh
January	
February	
March	
April	
May	
June	
July	
August	
September	
October	
November	
December	
TOTAL	

b. Minimum estimated annual Energy Output

Month	KWh
January	
February	
March	
April	
May	
June	
July	
August	
September	
October	
November	
December	
TOTAL	

EXPECTED DATE OF TESTING	:	
PROPOSED GRID CONNECTION SCHEDULE	:	

APPENDIX C

TECHNICAL STANDARDS FOR TESTING OF THE FACILITY

1. The Engineering Recommendation G59/1 and connected documents thereto of The Energy Networks Association, 18 Stanhope Place, Marble Arch, London W2 2HH, United Kingdom
2. CEB Guide for Grid Interconnection of Embedded Generators, Sri Lanka (2000)
3. Any subsequent written agreement comes into force between the Seller and CEB on testing the Facility.

Exhibit A

INFORMATION TO BE INDICATED IN THE SINGLE LINE DIAGRAM

1. The following are to be indicated in the Single-Line diagram:
 - (a). Grid Point "G", Termination Point "T" and Metering Point "M"
 - (b). Limits of Ownership for CEB & Seller
 - (c). All protection equipment
 - (d). Location of seller's energy metering equipment (if any)
2. VOLTAGE AT THE GRID POINT = 33kV (+6%, -6%)
3. VOLTAGE AT THE TERMINATION POINT = 33kV (+6%, -6%)

Single line diagram is given in page 27.

Note:

Metering Point	At this point CEB fixes its metering equipment for the measurement of Energy Output and the title of electrical energy passes to CEB.
Grid Point	Up to this point all developing costs shall be borne by the seller
Termination Point	The Seller owns all equipment except the portions marked as CEB's property up to this point and Seller has to operate and maintain them at his expense.

SINGLE LINE DIAGRAM OF THE FACILITY

ROUTE MAP (1: 50,000) AND PROJECT LOCATION