



PROJECT AGREEMENT

Solar4Africa | Pay-By-Solar

Project Country: Republic of Kenya

Solar PV Estimated Installation Size:	858.33 kWp
Estimated Solar Production (1 st yr at 1.451 kWh/kWp):	1,245.591 kWh
Monthly Payments:	
Index Tariff (first year)	US\$ 0.26 per kWh
Annual Index Tariff Increase	Annually, by US CPI

THIS AGREEMENT is made on 23 March 2014

MADE AND ENTERED INTO BY AND BETWEEN:

- (1) **GC RETAIL LIMITED**, a limited liability company incorporated in the Republic of Mauritius (with registration number C2/GBL112892, whose registered office is at Les Cascades, Edith Cavell Street, Port Louis, Mauritius (hereafter referred to as the "**Client**" which expression shall where the context so requires, include the Client's successor's in title and permitted assigns);
- (2) **SFA INVESTMENTS (KENYA) LTD.**, a limited liability company incorporated in the Republic of Kenya, with registration number CPR/2013/100334, whose registered office is at 1st Floor, Reliance Centre, Woodvale Grove, Westlands, Nairobi, Kenya (hereafter referred to as "**SFA**" which expression shall where the context so requires, include the SFA's successor's in title and permitted assigns); and
- (3) **SOLAR4AFRICA (MAURITIUS) LTD.**, a limited liability company incorporated in the Republic of Mauritius, with registration number C1/GBL119703, whose registered office is at 20th Floor, Newton Tower, Sir William Newton Str, Port Louis, Mauritius (hereafter referred to as the "**Funding Party**" which expression shall where the context so requires, include the Funding Party's successor's in title and permitted assigns)

(Each a "**Party**" and collectively the "**Parties**").

WHEREAS:

- (A) The Client wishes to appoint SFA to undertake the Works (as defined below) and to operate and maintain the Facilities over the Term (as defined below)
- (B) SFA accepts such appointment and agrees to undertake the Works, operate and maintain the Facilities and to guarantee the Facilities Warranty (defined below) over the duration of the Term, in consideration for the Contract Price (as defined below) in accordance with the terms and conditions of this Agreement
- (C) The Funding Party agrees to assume liability for settlement of the Contract Price in full on behalf of the Client, in consideration for which Monthly Payments (as defined below) shall be made by the Client to the Funding Party in accordance with the terms and conditions of this Agreement

NOW, THEREFORE, in consideration of the mutual benefits to be derived and the representations, warranties and conditions contained herein, the Parties agree as follows:

1. DEFINITIONS

- 1.1 Unless inconsistent with the context, the words and expressions set forth below shall bear the following meanings:

Approved Contractor" means the EPC Contractor and/or the O&M Contractor, as the context requires, who may be the same entity

Acceptance Certificate" means a document (of similar format to the acceptance certificate set out at Annex D) signed jointly by SFA and the Client in accordance with Clause 5 of this Agreement certifying that the Facilities have been Commissioned and are in accordance with the Functional Specifications and the Facilities Design

Agreement" means this agreement together with all annexes and schedules hereto and any future amendments to it

Anticipated Opening Date" means the date on which the Client plans to commence business operations at the Site

being such date as shall be notified to SFA and the Funding Party by the Client in writing at least 6 months prior to such anticipated date which anticipated date shall be no later than 31 July 2015

Authorisation means any approval, consent, license, permit, authorisation or other permission granted by a Government Authority required to perform an obligation under this Agreement

Availability means the availability of the Facilities at a particular instant or over a particular period of time to generate and deliver electricity to the Interconnection Point (and **Available** will be construed accordingly)

Availability Guarantee shall have the meaning ascribed to it in clause 11

Change in Law means the adoption, promulgation or modification, after the date of this Agreement, of any Legal Requirement, material condition or any restriction in connection with any Authorisation that establishes requirements for the operation and maintenance of the Facilities that are materially more onerous than the requirement in effect as of the date of this Agreement or which has a material cumulative effect over the duration of the Agreement

Change Order has the meaning given to it in clause 13.1

Change in Ownership shall mean any sale, exchange or other transfer (in one transaction or a series of related transactions) of the Site to any other person or entity, unless immediately following such sale, exchange or other transfer the Site is owned, directly or indirectly, by the Client

Client Works means the provision by the Client of the works listed in Annex F

Commissioned means the carrying out of the Tests on Completion (**Commissioning** and **Commission** will be construed accordingly)

Contractor Agreements means the EPC Agreement and the O&M Agreement and any future amendments to them

Contract Price means the fixed lump sum amount (exclusive of VAT) set out at Annex A as the "Contract Price" which shall be the total price for the obligations to be undertaken by SFA under this Agreement including the Works, operation and maintenance of the Facilities and provision of the Facilities Warranty for the Term which price shall not be subject to adjustment, other than as a result of a Change Order required pursuant to clause 13.4 and 13.5

Effective Date the date on which all conditions under Clause 4 have been satisfied or waived as appropriate

Encumbrance includes interest or equity of any person (including any right to acquire, option or right of pre-emption or conversion) or any mortgage, charge, pledge, lien, assignment, hypothecation, security interest, title retention or any other security agreement or arrangement, or any agreement to create any of the above

Energy Output means the total quantity of all actual net energy demanded and generated by the Facilities (measured in kWh), delivered to the Interconnection Point, for any given period of time

Energy Threshold means 996,473 kWh per annum subject to reduction in accordance with the provisions of this Agreement

Energy Potential means the Energy Output that the Facilities would have produced under normal working conditions, having met the Availability Guarantee, without the occurrence of a Client Risk, being an amount of 1,246,501 kWh per annum

Environmental Attributes means the characteristics of Energy Output produced by the Facility that have intrinsic value, separate and apart from the Energy Output, arising from the perceived environmental benefits of the Facilities Energy Output, including but not limited to all environmental and other attributes that differentiate the Facilities or the Energy Output from energy generated by fossil-fuel based generation units, characteristics of the Facility that may result in the avoidance of environmental impacts attributable to the Facilities or the compliance of the Facilities or the

Energy Output with the law, rules and standards of the United Nations Framework Convention on Climate Change (the "UNFCCC"), the Kyoto Protocol or any other country, regional or global successor programs involving transferability of Environmental Attributes.

EPC Agreement means the agreement for the engineering, procurement, construction and Commissioning of the Facilities to be entered into between SFA and the EPC Contractor and any amendments thereto, which shall be approved by the Client in accordance with Clause 4.1(b).

EPC Contractor means a technical contractor, whose appointment the Client consents to in accordance with clauses 4.1 and 9 of this Agreement, and which technical contractor is certified by Government Authority to provide the services required to undertake the Works.

ERC means the Energy Regulatory Commission of Republic of Kenya, the regulatory body established to regulate the supply of electrical energy.

Expiry Date shall have the meaning ascribed to it in clause 22.

Facility or **Facilities** means the electric power generation equipment, solar panels, carport support structure, inverters, controls, meters, switches, connections, conduit, wires and all related equipment installed as a removable temporary fixture at the Site for the Client to produce solar power for its own consumption. The Facilities include all support structures and panelling erected for the purpose of fixing panels, inverters, and other equipment to the Site.

Facilities Availability Factor means the number of hours to be expressed as a % of the number of hours the Facilities are Available during a specified period of time divided by the total number of hours over the same specified period of time, calculated in accordance with Annex G.

Facilities Design means the detailed technical and design specifications of the Facilities set out at Annex H.

Facilities Warranty has the meaning given to it in Clause 14.

Force Majeure Event has the meaning given to it in Clause 24.

Functional Specifications means the functional specifications of the Facilities as set out in Annex G.

Governmental Authority means the national and county Government of the Project Country, any ministry or department thereof, any government owned or controlled agency, and any other authority including any regional, county and local authorities.

Index Tariff means the kWh price of US\$ 0.26 per kWh used in calculating the Monthly Payment due and payable by the Client to the Funding Party which tariff shall be adjusted by US CPI on the first day of the month in which the Interconnection Date occurred and annually thereafter on the same day.

Insurance Cover means the insurance required in respect of each of SFA and the Client as set out in clause 20.

Insurance Policy means an insurance policy provided by an insurance company licensed to operate in the Project Country and approved by the Funding Party (which approval shall not be unreasonably withheld or delayed) which is obtained by the Client for the purpose of providing the Insurance Cover under this Agreement.

Interconnection Date means the date on which the Facilities are (i) complete and operating and (ii) energy is being delivered through the Interconnection Point to the Private Distribution Network.

Interconnection Point means one or more energy connection point(s) at the Site, where the Facilities connect to the Private Distribution Network, marked as such in the Facilities Design and which may include a connection to the national grid.

9/10

KPLC means the Kenya Power and Lighting Company Limited of Sitima Plaza, P.O. Box 30099 – 00100, Nairobi, Kenya, being the current public authority licensed to transmit, distribute and retail electricity to customers in and around Nairobi.

kW means kilowatt.

kWh means kilowatt hour alternating current.

kWp means the nameplate kilowatt rated peak installed power capacity.

Law means the laws of the Project Country.

Legal Requirement means any statute, law, regulation or other legislation, or any decree, order or directive of any Government Authority having jurisdiction in respect of this Agreement.

LIBOR the USS London Inter-Bank Offered Rate, being the index compiled for the British Banker's Association.

Monthly Payment means the variable monthly payment, calculated in accordance with clause 18.1.

O&M Agreement means the agreement for the operations and maintenance of the Facilities to be concluded between SFA and the O&M Contractor and any amendments thereto, which shall be approved by the Client in accordance with sub-clause 4.1(c).

O&M Contractor means a technical contractor, whose appointment the Client consents to in accordance with clauses 4.1 and 9 of this Agreement, and which technical contractor is certified by Government Authority to provide the services required to operate and maintain the Facilities.

Opening Date means the date on which the Client commences business operations at the Site.

Operating Year (i) in the year in which the Transfer Date occurs, the period beginning on the Transfer Date until and including 31 December of the year and thereafter (ii) successive periods of 1 year beginning on 1st January and ending on 31 December of each year and (iii) in respect of the last year of the Term, the period beginning on 1st January and ending on the last day of the Term.

Primary Meter shall have the meaning ascribed to it in Clause 15.1.

Private Distribution Network means the system of electric lines used for the distribution of electricity at the Site by the Client.

Project Country means the Republic of Kenya.

Project Schedule means the project schedule to be agreed between SFA and the Client in accordance with sub-clause 4.1(e) setting out (amongst others) the timelines for the Works and the anticipated Transfer Date.

Prudent Operating Practices means standards of practice obtained by exercising the degree of skill, diligence, prudence and foresight which can reasonably be expected from a skilled and experienced contractor or operator engaged in work similar to the Works and operation and maintenance of solar photovoltaic electric generating, transmission and distribution facilities, including the engineering, operating and safety practices generally followed by the industry and in the management of such facilities.

Schedule of Site Access means the schedule of Site access to be agreed between SFA and the Client in accordance with sub-clause 4.1(f) setting out the amount, points and time of access to be given to SFA and the Agreed Contractor in order for them to commence the Works, which Site access shall not be exclusive.

Security Interest means a specific debenture over the components comprising the Facilities, that the Client shall create in favour of the Funding Party or its assignee(s) pursuant to this Agreement and which debenture will be carried

put from any all-assets debenture the Client may have created in favour of any other financiers of the assets and property of the Client.

SFA Works mean the works to be completed by SFA and the Approved Contractor, which shall be approved by the Client in accordance with clause 4.1 (d).

Signature Date means the date on which the last Party signed this Agreement.

Site means the place at which the Facilities are to be installed as evidenced by the site plan described in Annex B.

Technical Fault has the meaning given to it in clause 19.4.

Term has the meaning given in clause 22.

Termination Amount has the meaning given to it in clause 23.1.

Tests on Completion means the tests to be performed in accordance with Prudent Operating Practices in order to put the Facilities into operation (agreed to by the Client pursuant to clause 4.1 (h)) which tests the Client shall have the right to afford.

Transfer Date means the date that the Acceptance Certificate is duly signed by SFA and the Client.

Transferred Liability has the meaning given to it in clause 16.2.

US CPI means the United States of America consumer price index (all urban consumers) as published by the United States Census Bureau.

US\$ or **\$** means the United States Dollar or the equivalent of the lawfully prevailing currency of the United States of America.

VAT means Value Added Tax (where applicable) as levied under the Law.

Works mean the engineering, design, procurement, transportation, delivery, installation, construction, and Commissioning of the Facilities.

2 INTERPRETATION

in this Agreement, unless the context otherwise indicates:

- 2.1 reference to a business day is a reference to any day which is not a Saturday, Sunday or recognised public holiday in the Project Country and Republic of Mauritius, and is a day on which commercial banks are open for business;
- 2.2 reference to a day, month or year is a reference to a calendar day, month or year;
- 2.3 the headings and paragraph numbering are for convenience only and shall be ignored in construing this Agreement;
- 2.4 words importing the singular shall include the plural and vice versa;
- 2.5 words importing one gender shall include other genders;
- 2.6 words indicating natural persons shall include and import artificial persons;
- 2.7 any reference to a Party in this Agreement shall be deemed to include its cessionaries or assignees;
- 2.8 reference to "including", "included" or "include" will be read as if followed by the words "without limitation".

3 INTRODUCTION

- 3.1 SFA will appoint the Approved Contractor, with the approval of the Client, under its responsibility, direction and control.

the Works to the specifications agreed in the Facilities Design and SFA will further be responsible for the operation and maintenance of the Facilities. SFA will provide the Facilities Warranty over the Term for the benefit of the Client.

- 3.2 All costs associated with the Works, operations and maintenance and provision of the Facilities Warranty, necessary to ensure the Facilities proper working order for the full duration of the Agreement, are included in the Contract Price and the Client shall have no further obligation in this regard.
- 3.3 The Client's only obligation for the services rendered to it under this Agreement shall be to make the Monthly Payments to the Funding Party in repayment of the Transferred Liability.
- 3.4 This Agreement consists of three parts which, along with all Annexures and Recitals, collectively form the Agreement:
- (a) PART A: the rights and obligations between the Client and SFA for the Works, operations and maintenance of the Facilities and provision of the Facilities Warranty;
 - (b) PART B: the right and obligations between the Client and the Funding Party in regards to the assumption by the Funding Party of the obligation to pay the Contract Price and the Client's obligation to make the Monthly Payments; and,
 - (c) PART C: General rights and obligations applicable to all Parties to this Agreement.

4 EFFECTIVE DATE

- 4.1 This Agreement is conditional on the following conditions (referred to as the "**Conditions Precedent**") having been completed or met before installation of the Facilities can commence, which installation shall commence on the **Effective Date**:
- (a) written approval and acceptance of the Facilities Design between the Client and SFA within 60 days from the date on which the Facilities Design is presented to the Client, provided that the Client shall have a reasonable extension of time where amendments are required by it prior to it being able to approve the Facilities Design;
 - (b) written approval and acceptance by the Client of (i) the agreed form EPC Contract (once it is in agreed form between SFA and the EPC Contractor) and (ii) any amendments to the EPC Contract, which contract shall include an appropriate performance guarantee in favour of SFA and collateral warranties in favour of the Client and a waiver of lien instrument in favour of the Client;
 - (c) written approval and acceptance by the Client of (i) the agreed form O&M Contract (once it is in agreed form between SFA and the O&M Contractor) and (ii) any amendments to the O&M Contract;
 - (d) written approval and acceptance by the Client of the scope of SFA Works;
 - (e) written approval and acceptance by the Client of the Project Schedule;
 - (f) written approval and acceptance by SFA of the Schedule of Site Access;
 - (g) SFA having arranged that the Approved Contractor has in place the Insurance Cover for the Works, which Insurance Cover shall be approved by the Client;
 - (h) SFA having provide to the Client a list of Tests on Completion;
 - (i) SFA having obtained all the necessary Authorisations, save for the Authorisations set out in clause 6.2;
 - (j) written approval by the Funding Party of this transaction;
 - (k) written confirmation by the Funding Party to the Client that it has had the opportunity to complete a due diligence (which due diligence shall be reasonable and shall be completed within 90 days of the Signature Date); and

in each Party procuring and thereafter delivering to the other Parties duly certified extracts of minutes of a duly held board meeting authorising and/or ratifying the execution and performance by or on behalf of that Party of this Agreement and as applicable the Contractor Agreements.

- 4.2 The Parties shall co-operate with one another to ensure provision of prompt and complete information required by any person for the purposes of fulfilling the Conditions Precedent and shall use their respective reasonable endeavours to ensure fulfilment of the Conditions Precedent in a timely manner.
- 4.3 Upon the fulfilment or waiver by the Client of the applicable Conditions Precedent, the Parties shall proceed with this Agreement. If any of the Conditions Precedent have not been satisfied or waived by the Client prior to the date by which they are due to be fulfilled, and in any event by 180 days from the Signature Date, then this Agreement shall terminate at such date, in which event this Agreement shall be deemed to be null and void *ab initio* and no Party shall have any liability whatsoever to any other Party save for in respect of clauses 27 (arbitration), 30 (governing law and jurisdiction), 31 (notices), 32 (miscellaneous) and 33 (confidentiality).

5. TRANSFER DATE

- 5.1 Upon completion of the Works, SFA will be entitled to serve the Acceptance Certificate on the Client, provided that the following conditions (the "Transfer Conditions") have been met:
- (a) the Facilities have been completed in accordance with the Facilities Design and the Functional Specifications, except for any minor outstanding work which will not affect the use of the Facilities for their intended purpose (either until or whilst this work is completed and these defects are remedied) ("Outstanding Items List"), provided that all the work required to complete the Outstanding Items List shall be completed within 60 days; and,
 - (b) the Facilities have passed the Tests on Completion;
 - (c) the Client having exercised or waived its right to undertake or attend the Tests on Completion;
 - (d) the Client having received and had a reasonable opportunity to review the results of the Tests on Completion;
 - (e) KPI Connection authorisation having been obtained for the Facilities by SFA; and
- 5.2 The Client shall, within 15 days after receiving the Acceptance Certificate:
- (a) sign the Acceptance Certificate, confirming the Transfer Date; or
 - (b) reject the application, giving reasons and specifying the work required to enable the Acceptance Certificate to be issued. SFA shall cause the outstanding SFA Works to be completed, before SFA will be entitled to serve another Acceptance Certificate pursuant to clause 6.1.
- 5.3 On the Transfer Date legal ownership of Facilities, free from any Encumbrances (other than the Security Interest), will pass to the Client.

PART A: ENGINEERING, PROCUREMENT, CONSTRUCTION, OPERATIONS & MAINTENANCE

6. AUTHORISATIONS

- 6.1 SFA shall be responsible for the procurement and compliance with all Authorisations or other requirements of Law relating to the Works and operation and maintenance of the Facilities (save for the procurement of those Authorisations set out at clause 6.2 below). The Client shall provide SFA with all reasonable assistance required from it for SFA to procure the relevant Authorisations provided that any cost incurred by the Client in providing such assistance shall be reimbursed by SFA.
- 6.2 The Client shall be responsible for the procurement of the following Authorisations:

- (a) the Environmental Impact Assessment licence in respect of the Facilities; and
- (b) the building plan approvals necessary for the Approved Contractor to commence installation of the Facilities.

7 DUTIES OF SFA AND THE FUNDING PARTY

7.1 In accordance with and subject to the terms of this Agreement, SFA shall:

- (a) provide the form of all future Contractor Agreements for the Client's review and approval within 15 days following receipt thereof, which approval shall not unreasonably be withheld;
- (b) enter into the Contractor Agreements, after obtaining the Client's written approval, with an Approved Contractor for the Works in accordance with the Functional Specifications and the Facilities Design;
- (c) be responsible to operate and maintain the Facilities for the duration of the Term;
- (d) guarantee the Facilities Warranty;
- (e) ensure that the Facilities are developed and operated in accordance with Prudent Operating Practices;
- (f) deliver all Energy Output (up to the Energy Potential) required by the Client (save where the Facilities are removed from operation due to permitted scheduled or unscheduled maintenance);
- (g) be allowed to appoint sub-contractors at its cost, to carry out any of the SFA Works required to ensure proper operation, maintenance and equipment replacement duties are performed, provided written consent is obtained from the Client, and that SFA shall bear the responsibility for all such sub-contractors and be liable for them; and
- (h) require its employees, agents, Contractors (and their employees and agents), sub-contractors (and their employees and agents) to abide by all rules applicable to the Site and the Facilities, including but not limited to rules pertaining to safety, security procedures or requirements, and designated entrances.

7.2 Quality of Supply: The Energy Output must comply with the Functional Specifications and the Facilities Design.

7.3 Planned maintenance schedule: The program of planned maintenance for each calendar year will be provided to the Client at the beginning of each year for comment. The Client may propose alternative dates within 15 days of receipt.

7.4 Changes to maintenance program: The Parties will cooperate and use their reasonable endeavours to accommodate any reasonable request by a Party to reschedule any planned maintenance.

7.5 Other outages: The SFA may require maintenance or repair of the Facilities to be carried out at times other than during planned maintenance where such maintenance or repair cannot be deferred to the next scheduled planned maintenance period or upon the occurrence of any outage or emergency. Any unscheduled maintenance needs will be communicated to the Client immediately. SFA shall make all reasonable endeavours to conduct any maintenance during times which will cause minimum disruption to the activities on the Site. Without prejudice to SFA's obligation to provide the Availability Guarantee, the Facilities may be removed from operation for planned and unplanned maintenance periods. SFA shall be allowed 14 days for unplanned maintenance in any Operating Year during the Term (provided that where an Operating Year is less than 12 months, the number of unplanned maintenance days shall be reduced on a pro rata basis).

7.6 Responsibility: Notwithstanding anything to the contrary, SFA shall assume primary responsibility and liability for the Works and operation and maintenance of the Facilities during the Term.

7.7 In accordance with and subject to the terms of this Agreement, the Funding Party shall, on the Transfer Date, automatically assume liability for settlement of the Contract Price on behalf of the Client.

2 THE CLIENT

- 2.1 The Client shall give SFA and the Approved Contractor right of access to the Site in accordance with the Schedule of Site Access. If the Approved Contractor or SFA suffers delays as a result of a failure by the Client to give any such right, SFA shall be entitled to an extension of time for any such delay.
- 2.2 No Lien: Save as provided herein, the Client agrees not to create any Encumbrance over the Facilities until such time as all amounts have been fully paid under the Agreement.
- 2.3 Client's Responsibilities: The Client shall
- (a) take delivery of the Facilities at the Site on the Transfer Date;
 - (b) require employees and agents to abide by all rules applicable to the Site and the Facilities, including but not limited to rules pertaining to safety, security procedures or requirements, and designated entrances;
 - (c) reasonably cooperate with the Approved Contractor and provide any other assistance necessary to enable it to perform the SFA Works;
 - (d) at all times promptly respond, including making appropriate representatives available with decision-making authority, to any reasonable requests by any of the Parties to this Agreement for meetings, for review and comments regarding relevant documents provided to them for review and comment;
 - (e) manage vegetation and shading from other objects (or refrain from erecting other objects) that may cause shading of the Facilities, so that the Facilities receive as much direct sun as they did when first installed;
 - (f) not tamper with, remove labelling or mark the Facilities in any manner and notify SFA immediately if there are any signs of damage, theft or vandalism to the Facilities; and,
 - (g) maintain and make available at the Client's cost an internet connection with one available wired ethernet port and standard AC power outlet in order to allow for the Facilities performance to be monitored remotely, provided that the Client shall not be liable for any downtime on this service.
- 2.4 Site Preparation: The Client will be responsible for the cost of the Client Works, necessary to prepare the area for the Works as required in the Facilities Design.
- 2.5 Site: The Client is responsible for providing the Site on which the Facilities shall be constructed. The Client warrants that it holds title to, agrees to and is legally able to make the Site available to SFA and the Approved Contractor, for the Works and the operation and maintenance of the Facilities, for the Term, provided that such access shall not be exclusive.
- 2.6 Alterations: The Client agrees not to, without the prior written consent from the Funding Party, modify or make alterations to the Facilities or make alterations to any adjacent building or structure that may have an adverse effect on the ability of the Facilities to produce power. SFA shall procure that the O&M Contractor does not modify or make alterations to the Facilities that may have an adverse effect on the ability of the Facilities to produce power.
- 2.7 Damage, Unintended User: The Client will not allow or conduct activities on or near the Facilities that have a reasonable likelihood of causing damage or impairment and shall use the Facilities only in the manner and for the purpose for which it is designed.

3 APPROVED CONTRACTOR

- 3.1 The Client expressly consents to the appointment of SOLAR CENTURY EAST AFRICA LIMITED (registered number PRG2013/109535) whose registered office is at Post Office Box 15097 – 00509 Nairobi, Kenya as an Approved Contractor under this Agreement subject to the Client's approval of the Contractor Agreements.

9.2 SFA shall appoint the Approved Contractor to:

- (a) undertake the Works and operate and maintain the Facilities to the specifications agreed in the Facilities Design or amendments thereto and in accordance with Prudent Operating Practices; and
- (b) repair, maintain, operate and monitor the Facilities in accordance with Prudent Operating Practices for an initial term of 2 years, extendable at the option of SFA with the approval of the Client.

9.3 At any point during the Term, should the Approved Contractor fail to materially adhere to the provisions of the Contractor Agreements or be in default of any of its provisions under the Contractor Agreements, SFA may replace the Approved Contractor with an alternative suitably experienced firm, having received prior written consent from the Client, which consent shall not unreasonably be withheld.

9.4 SFA shall remain responsible to the Client for the delivery of the Facilities in accordance with the Functional Specifications and the Facilities Design and for all costs and expenses associated with the operations and maintenance of the Facilities and the provision of the Facilities Warranty over the Term.

10 CONSTRUCTION & COMMISSIONING

10.1 SFA shall keep the Client regularly and periodically informed of

- (a) the activities at the Site during the construction and Commissioning of the Facilities period; and of
- (b) the results in respect of the Tests on Completion.

10.2 SFA shall take all steps necessary to co-ordinate activities with the Client to ensure that the Works causes minimum disruption to the other contractors on the Site and is executed within the Project Schedule.

10.3 Energy Output before Transfer Date. The Client shall pay SFA for all Energy Output delivered through the Interconnection Point to the Private Distribution Network, used by the Client after the Interconnection Date and prior to the Transfer Date at a rate of US\$0.26 per kWh delivered.

10.4 Environmental Attributes. Environmental Attributes recognised under any international, national, or other laws and regulations associated with the ownership and generation of power from the Facilities, including but not limited to carbon credits, remain the property of SFA or its assigns for the duration of the Term.

11 AVAILABILITY GUARANTEE

11.1 SFA guarantees that it shall maintain the Facilities Availability Factor in an Operating Year at "at least 95% (the **Availability Guarantee**)".

11.2 If the Availability Guarantee is not met, SFA shall immediately provide the Client with a written proposal setting forth the various steps (and timing of such steps), which SFA will undertake to return the Facilities to full operation and Availability Guarantee.

11.3 Without prejudice to SFA's objectives under sub-clause 11.1, if the Availability Guarantee is not met, SFA shall pay to the Client by way of liquidated damages an amount equal to the difference between the cost per kWh for power procured by the Client from alternative sources and the then prevailing Index Tariff multiplied by 2,730 kWh per day.

11.4 The Parties agree that such damages are a genuine and reasonable pre-estimate of the damages likely to be sustained by the Client as a result of SFA's breach of its obligations under sub-clause 11.2.

11.5 SFA shall monitor the Facilities Availability Factor and at least every quarter provide a report to the Client showing the Facilities Availability Factor calculation, calculated in accordance to Annex G. SFA shall be responsible for collecting and measuring data required in order to produce each annual calculation.

12 DELAYS

- 12.1 Delays not due to Client: If the Transfer Date does not occur within 60 days from the Anticipated Opening Date for any reason whatsoever, save as a result of a material breach of the Client's obligations under this Agreement or as a result of a Force Majeure Event effecting SFA, the Agreed Term shall be reduced by the number of days that the Transfer Date is delayed by, save that if the Transfer Date has still not occurred within a period of 180 days following the Anticipated Opening Date, unless due to the Client's material breach of its obligations under this Agreement, the Client shall be entitled to cancel this Agreement without any liability or further payment in accordance with clause 25.4 and SFA shall remove the Facilities from the Site and return the Site to its original condition.

13 CHANGE ORDERS

- 13.1 Any changes to the scope of the SFA Works before or after construction begins ("**Change Orders**") shall be dealt with under this clause 13.
- 13.2 Process: Any of the Parties may request in writing a Change Order consisting of additions to, deletions from, or other revisions to the SFA Works, provided that such changes are within the general scope of the SFA Works.
- 13.3 Change Order Requests: Any Change Order request from the Client shall be evaluated by SFA, with the input and assistance of the Approved Contractor. Each Change Order request shall initially be evaluated to determine whether it:
- (a) adds value to the Facilities without increasing the cost of the SFA Works or delaying the anticipated Transfer Date of the Facilities, shall be approved; and
 - (b) adds value to the Facilities without delaying the anticipated Transfer Date of the Facility, but increases the cost of the SFA Works or delays the anticipated Transfer Date of the Facilities or compromise performance of the Facilities and if so then the Change Order Request shall require mutual approval by the Client and SFA and shall only be approved if the increased costs are allocated as set forth in the clauses below.
- 13.4 Change Orders Requested by Client: A Change Order to address solely the Client's needs, including without limitation changes to address aesthetic or design requirements. Such Change Order must be approved by SFA. Where the Change Order increases the cost of the SFA Works, the Client shall either decide to bear the entire incremental cost to the SFA Works (including costs of delays and rework) resulting from such Change Order or it may accept an amended Index Tariff which shall be proposed by the Funding Party, in which case the incremental cost to the SFA Works (including costs of delays and rework) resulting from such Change Order shall be borne by the Funding Party.
- 13.5 Change Orders Required by Acts of Government Authorities: If any action of any Government Authority requires a Change Order that increases the cost of the Facilities provided such action of a Government Authority does not arise as a result of a breach by SFA of a Legal Requirement or its obligations under this Agreement, the Client shall, upon providing written consent in respect of such Change Order, be responsible for any incremental cost for such Change Order.
- 13.6 Change Orders Resulting from Errors or Omissions: The Client shall not be responsible for any increased cost of the SFA Works resulting from Change Orders that are necessary because of errors of SFA or the Authorised Contractor or that have not been requested for by the Client.
- 13.7 All requests for Change Orders by SFA or the Funding Party shall require the prior written approval of the Client.

14 FACILITIES WARRANTY

- 14.1 SFA hereby warrants and undertakes in respect to the Facilities that, during the Term that it shall, undertake the Works

and, execute and complete the Facilities in accordance with this Agreement and in accordance with Prudent Operating Practices as being necessary for the completion, or safe and proper use of the Facilities. The Facilities shall be fit for the purposes for which they were intended. The Facilities will be free from defect in workmanship or defects in (or a breakdown of, materials of components (the "**Facilities Warranty**").

14.2 In addition, SFA expressly assigns to the Client all rights to and benefits of all equipment warranties and any warranty rights given by the Approved Contractor to SFA and any rights under any defects liability period, including all equipment manufacturer warranties.

14.3 Subject to clause 14.4 below, under the Facilities Warranty, for the duration of the Term, SFA will cause to be repaired or replace any defective material or component, or cause to be corrected any defective workmanship, and remedy any latent defects at no cost to the Client. New, reconditioned or upgraded parts may be used when repairs or replacements are made.

14.4 The Client acknowledges that it is aware of the terms of the manufacturers warranties in respect of the Facilities components, and in relation to such warranties and rights, the Client undertakes to comply with the terms of all such warranties and shall not make any modifications, improvements, revisions or additions to the Facilities or take any action that could void any equipment warranties or do anything which may prejudice any such warranties or rights.

14.5 All actual costs of and incidental to any legal and/or extra-legal proceedings in terms of this clause relating to such equipment warranties and rights that extend beyond the Term of the Agreement shall be for the costs of the Client.

15 METERING

15.1 SFA will install the primary metering equipment ("**Primary Meter**") for the purpose of measurement of the Energy Output. Readings will automatically (electronically) be taken in real-time and more specifically at the end of each calendar month to measure:

- (a) the Energy Output produced by the Facilities at the Interconnection Point; and
- (b) performance of the Facilities.

15.2 The information recorded by the Primary Meter will be provided to both the Client and the Funding Party and used to calculate the Monthly Payment with reference to the prevailing Index Tariff.

15.3 In the event that metering of Energy Output is prevented, delayed or temporarily disrupted SFA shall as soon as practically possible make arrangements for a replacement meter to be installed. An estimate of the Energy Output shall be used for that month based on the average of the preceding 1 month's Energy Output, unless the Facilities have been in operation for a full Operating Year, in which case the Energy Output for the same calendar month of the prior year shall be used, and appropriate adjustments to the Monthly Payment shall be made in the month following when the Primary Meter is shown to be operating normally again.

15.4 In the event that metering of Energy Output is prevented, delayed or temporarily disrupted for a period longer than 30 days and SFA has not installed a backup meter, the Client may install its own meter and recover the cost from SFA, which shall be used as the Primary Meter until such time as it can be adequately demonstrated that the original Primary Meter is shown to be producing accurate readings and functioning normally.

15.5 The Client shall be entitled but not obliged to install its own metering equipment at its costs, however SFA's metering equipment (in the absence of malfunction) shall be the Primary Metering equipment used for the purpose of calculating the Monthly Payments.

PART B: CONTRACT PRICE; FUNDING

16 CONTRACT PRICE

- 16.1 The Contract Price covers the entire obligations of SFA under the Agreement and includes all things necessary for the proper carrying out of the Works and the proper operation and maintenance of the Facilities, the remedying of any defects or equipment replacement and costs in respect to the Facilities Warranty during the Agreement Term. The Contract Price is subject only to adjustment in accordance with Clause 13.
- 16.2 The Funding Party hereby agrees to assume the Client's full obligation to pay the Contract Price to SFA (the "Transferred Liability"), in consideration, of which, the Client agrees to pay the Funding Party the Monthly Payments in accordance with clause 18.
- 16.3 SFA shall issue a single VAT invoice for the Contract Price within seven (7) days following issuance of the Acceptance Certificate. SFA shall issue a written statement, which shall confirm settlement of the Contract Price by the Funding Party for and on behalf of the Client.
- 16.4 The Client will be liable for payment of all value added tax (VAT) or any sales taxes, chargeable under the Law on the Contract Price to SFA at the date of invoice.
- 16.5 Signature of the Acceptance Certificate by the Client and SFA shall constitute full acceptance by the Client of the Facilities.

17 SECURITY INTEREST

- 17.1 The Client hereby grants to the Funding Party as security for the Transferred Liability, the Security Interest which shall be registered at the Companies Registry to rank *pari passu* with any other security created by the Client in favour of any other financiers. The Client grants, subject to the provision of the Security Interest or any Legal Requirements, to the Funding Party the authority to repossess and sell the Security Interest in the event of a Client Event of Default.
- 17.2 In respect to the Security Interest, the Client agrees:
- (a) not to allow any other interest in it or claim against the Facilities, not to sell or lease the Facilities or to give it as collateral for any other obligation;
 - (b) hereby appoints the Funding Party as its irrevocable attorney-in-fact, to perform any acts which are necessary to protect or realise the Security Interest in the event of Default by the Client;
 - (c) that until such time as all payments required of the Client to the Funding Party over the Term of the Agreement have been duly paid, all benefits and all privileges of any equipment and vendor rights existing by law, are transferred to, and shall be for the benefit of the Funding Party;
 - (d) without regard to SFA's obligation under the O&M Agreement, that the Funding Party may with the prior written approval from the Client, delegate, cede, transfer, make over or assign all or any part of its right, title and interest in the payments due to it by the Client and and/or the Security Interest in the Facilities.

18 REPAYMENT

- 18.1 The Client shall repay the Transferred Liability (with the exception of any shortfall as contemplated in clause 18.8 as a variable monthly repayment to the Funding Party (hereinafter referred to as the "Monthly Payment") from the Transfer Date and at the end of each subsequent month (or part thereof) thereafter for the duration of the Term, calculated as follows:

$$MP = (A \times B)$$

Where:

MP is the Monthly Payment due;

A is the Energy Output metered for the calendar month;

B is the prevailing Index Tariff.

18.2 The Client is not entitled to prepayment of the Transferred Liability unless under the circumstances envisioned in clause 23.

18.3 The Client and the Funding Party agree to account for the Monthly Payment as follows:

(a) US\$ 16,690 of the Monthly Payment shall be accounted for as the "Capital Portion" which is the amount of the Transferred Liability (US\$ 2,403,324), divided by the number of months in the Term (*144 months*) assuming that the Term is not extended or reduced;

(b) if the Monthly Payment is in excess of the Capital Portion, the difference between the Monthly Payment and the Capital Portion shall be accounted for as income due to the Funding Party; or,

(c) if the Monthly Payment is less than the Capital Portion, the amount paid shall represent a return of capital only, and any shortfall in the Capital Portion shall be added to the Capital Portion to be calculated for the subsequent month.

together "Agreed Accounting Treatment"). The Parties will apply the Agreed Accounting Treatment provided that it is not inconsistent with Legal Requirements and local and international accounting standards.

18.4 The Client shall be entitled to deduct income tax or other taxes, charges or duties from the Monthly Payment, only insofar as the Client is required to deduct the same to comply with applicable Law. The Parties shall cooperate and take all steps reasonably and lawfully available to them, to obtain double taxation or other relief. If the Client is required to make any such deduction it shall provide the Funding Party with such certificates or other documents as it can reasonably obtain to enable the Funding Party to obtain appropriate relief from double taxation of the payment in question.

18.5 Notwithstanding other provisions of this Agreement, the Funding Party expressly agrees to bear the risk of any shortfall in the Monthly Payment relative to the Capital Portion and consequently the recoverability of the Transferred Liability over the Term.

18.6 At the end of each month, the Client will be provided with a statement of account ("**Statement**") (by email, with a hard copy thereof being posted), which will set out the Monthly Payment for the prior month and the calculation thereof. The Client agrees to make payment in respect of any undisputed Monthly Payment by no later than 30 calendar days after the date of receipt of the Statement by email by the sole means of electronic bank transfer, direct debit or direct bank transfer.

18.7 Late payments due by the Client will be charged interest at the dollar rate for the 1 year LIBOR + 2% per annum (the "**Interest**"), from 30 calendar days after the date of the said Statement. Any Monthly Payments paid thereafter shall first be setoff against the Interest.

18.8 For each Operating Year, provided that SFA has met its Availability Guarantee for that Operating Year, the Monthly Payments in aggregate shall be equal to at least the Energy Threshold multiplied by the prevailing Index Tariff, provided that if an Operating Year is shorter than a calendar year the Energy Threshold shall be reduced on a

pro rata basis). The Client agrees to make payment to the Funding Party within 30 days of the end of an Operating Year of an amount equivalent to

(Energy Threshold - Energy Output delivered in an Operating Year) x prevailing Index Tariff

19 RISK OF LOSS

19.1 Risk borne by Client: Damage to the Facilities caused by a Force Majeure Event or theft of the Facilities other than as a result of an SFA Risk or a Technical Fault, failure by the Client to maintain vegetation growth or prevent shading over the Site which prevents the delivery of the Energy Output or any loss or damage caused to the Facility as a result of willful misconduct or negligence by the Client, shall constitute a "**Client Risk**" for the purpose of this Agreement.

19.2 In the event of the occurrence of a Client Risk and provided that the Facilities would have been Available save for the occurrence of such Client Risk, the following sub-clauses shall apply:

(a) if the event causes a material reduction in the Energy Output or prevents delivery or off take of the Energy Output, the Client will be liable for a Monthly Payment based on the Energy Potential, until such time as the circumstances are rectified and the Facilities are operating under the same conditions as before the occurrence of such incident or event; and

(b) the cost of restoring the Facilities shall be borne by the Client and may be recovered by it under the Insurance Cover.

19.3 For the purpose of this clause, the effect a Client Risk has on the Energy Output shall be considered material where the actual Energy Output is less than the Energy Output that would have been generated and delivered, save for the occurrence of the Client Risk for a period longer than 10 consecutive calendar days.

19.4 Risks borne by SFA. SFA shall bear all risk of loss, damage, destruction, inoperability or incapacity of the Facilities caused directly by actions or inactions of SFA or any party under the control or appointment of SFA for the duration of the Term (an "**SFA Risk**"). Should the Facilities stop working, breakdown or malfunction, due to mechanical, electrical or technical failure, failure by an Approved Contractor to properly maintain the Facilities, equipment, hardware or software (a "**Technical Fault**"), SFA shall be liable for the cost of such repairs, equipment replacement and is required to take all reasonable actions necessary to restore the Facilities to their normal operating output, at no cost to the Client.

20 INSURANCE

20.1 The Client shall insure the Facilities from the Transfer Date, under a comprehensive insurance cover, which shall include all natural disasters, loss or damage caused by accidental damage, fire, explosion, burglary, theft, riots, strikes, cyclone, flood, malicious damage. The Facilities shall be insured for its full replacement cost (including VAT) with a registered insurance company approved by the Funding Party. The Client must keep the Facilities fully registered, licensed and insured until all the Client's obligations under this Agreement have been fully discharged.

20.2 All Insurance Policies to be maintained by the Client shall provide for waivers of subrogation in favour of The Funding Party. These policies shall include the following:

(a) a severability of interests or cross liability clause;

(b) insurance shall be primary and not excess to or contributing with any insurance or self-insurance;

(c) the Funding Party shall be named as additional insured persons; and

(d) all Insurance Policies required to be maintained shall include a provision that bars any cancellation or reduction in coverage in a manner that affects the interests of the Funding Party, without 60 days prior written notice to it.

- 20.3. Should the Client fail to procure the required insurance, or allow such insurance to lapse without renewal (when renewable) the Funding Party may procure such insurance at its expense, including without limitation, premium cost and administration expense. The Funding Party shall add such amount as actually incurred to the Monthly Payment.
- 20.4. Within a period of 30 days before the estimated Transfer Date, the Client shall furnish certificates of insurance to the Funding Party evidencing the insurance required pursuant to this Agreement.
- 20.5. Notwithstanding which Party hereto shall have purchased any insurance in respect of the Facilities or otherwise referred to in this Agreement, the Client shall promptly pay to the Funding Party any deductible amount related to any claim against or other cost to the principal covered under any such Insurance Policy which arose due to a Client Risk.
- 20.6. SFA shall or shall ensure that the Facilities are insured from the Effective Date by the Approved Contractor, under a comprehensive insurance cover, which shall include all natural disasters, loss or damage caused by accidental damage, fire, explosion, burglary, theft, riots, strikes, cyclone, flood, malicious damage. The Facilities shall be insured for their full replacement cost (including VAT) with a registered insurance company approved by the Client. SFA must keep the Facilities fully registered, licensed and insured until the Transfer Date.
- 20.7. SFA shall separately insure the Facilities against Technical Fault or an SFA Risk for any harm, damage or loss caused by SFA, the Approved Contractor and their employees or agents up to a maximum of \$1,000,000 per event.
- 20.8. All Insurance Policies to be maintained by SFA shall include the following:
- (a) a severability of interests or cross liability clause;
 - (b) insurance shall be primary and not excess to or contributing with any insurance or self-insurance;
 - (c) the Client shall be named as additional insured persons; and
 - (d) all Insurance Policies required to be maintained shall include a provision that bars any cancellation or reduction in coverage in a manner that affects the interests of the Client, without 60 days prior written notice to it.
- 20.9. Should SFA fail to procure the required insurance, or allow such insurance to lapse without renewal (when renewable) the Client may procure such insurance at its expense, including without limitation, premium cost and administration expense and the Client may deduct such amount as actually incurred from the Monthly Payment.

PART C: GENERAL TERMS

21. CHANGE IN OWNERSHIP: SALE

- 21.1. The Parties agree that in the event of Change in Ownership where the Site is transferred to an unrelated third party (the "New Owner"), the New Owner will assume all the obligations of the Client under this Agreement. The Parties also acknowledge that in the event that the tax treatment of the Monthly Payment is changed due to the tax residency status of the New Owner then the New Owner will increase the Monthly Payments such that Funding Party receive the same amount of Monthly Payment as it did when the Client was making the payment.
- 21.2. The Client has the following options available in the event of a sale of the Site or termination of possession through a Change in Ownership, as the case may be:
- (a) the Client may transfer its rights and obligations to the New Owner, subject to written consent given by the Funding Party, which written consent shall not unreasonably be withheld; or
 - (b) the Client may terminate the Agreement and its obligation to make further payment, through settlement of the Termination Amount in Annex E, with reference to the applicable month in which the Agreement is terminated.
- 21.3. If the Client fails to comply with the above options, it will be in default of this Agreement.

22 AGREEMENT TERM

- 22.1 Subject to clause 12.1, the term of this Agreement (the "**Term**") shall commence as of the Effective Date and shall end on the twelfth anniversary of the Transfer Date ("**Agreed Term**") or where the Agreed Term has been reduced in accordance with Clause 12.1 on such date that is the last day of the Term calculated in accordance with Clause 12.1 or where the Agreed Term has been extended in accordance with Clause 22.2 on such date that is the last day of the Term calculated in accordance with Clause 22.2 (such date when the Term expires is referred to as the "**Expiry Date**").
- 22.2 If it is determined by the Client and the Funding Party that the aggregate Energy Output of the Facilities during the Agreed Term is less than 14,384,851 kWh ("**Contract Energy Output Threshold**") the Agreed Term shall be extended for such period that expires on the earlier of the date falling on the thirteenth anniversary of the Transfer Date or such date the aggregate Energy Output of the Facilities is equivalent to the Contract Energy Threshold.
- 22.3 On the Expiry Date, provided that the Parties are not in default of their obligations, the Agreement shall be deemed to be null and void ab initio and no Party shall have any liability whatsoever to any other Party save for in respect of clauses 27 (arbitration), 30 (governing law and jurisdiction), 31 (notices), 32 (miscellaneous) and 33 (confidentiality).
- 22.4 All obligations and risks in respect to operating and maintaining the Facilities shall be transferred to the Client on the Expiry Date.

23 EARLY TERMINATION

- 23.1 In the event that this Agreement is terminated early for reasons due under clause 21, 24 or 25.2, the Client shall be liable to the Funding Party for the following amounts calculated from the first day of the month in which the Agreement is terminated ("**Termination Month**"):
- (a) An amount calculated with reference to Annex E, based on the month in which the Agreement is terminated; plus
 - (b) The sum of all Monthly Payments due but not paid up to the beginning of the Termination Month.
- (together the "**Termination Amount**")
- 23.2 The Termination Amount shall be payable by the Client to the Funding Party within 60 days from the date on which the Agreement is terminated. No amount shall be withheld against the payment unless expressly allowed for under the Agreement.

24 FORCE MAJEURE

- 24.1 The effect of a Force Majeure event shall apply to this Agreement. A Force Majeure Event means any circumstance or event which is beyond the control of either Party including, without limitation:
- (a) acts of God, flood, drought, earthquake, class 3 and 4 cyclones or other natural disaster;
 - (b) epidemic or pandemic;
 - (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
 - (d) nuclear, chemical or biological contamination or sonic boom;
 - (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
 - (f) collapse of buildings, fire, explosion or accident.

(g) any labour or trade dispute, strikes, industrial action or lockouts; and

(h) interruption or failure of any utility service.

(c) **Force Majeure Event**

24.2 For the avoidance of doubt, the following events or circumstances shall not constitute a Force Majeure Event:

(a) late delivery to the Site of machinery, equipment, materials, spare parts or consumables (except where such late delivery or delay is itself attributable to a Force Majeure Event);

(b) a delay in the performance of an Approved Contractor or a sub-contractor of any tier (except where such delay is itself attributable to a Force Majeure Event);

(c) normal wear and tear of or random flaws in materials and equipment or breakdowns of equipment in respect of either the Facilities or the Private Distribution Network; or

24.3 Provided it has complied with clause 24.5, if a Party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (the "**Affected Party**"), the Affected Party shall not be in breach of this Agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

24.4 Any delays in or failure of performance by a Party, other than the obligations to pay monies hereunder, shall not constitute a default hereunder if and to the extent such delays or failures of performance are caused by a Force Majeure Event.

24.5 The Affected Party shall:

(a) as soon as reasonably practicable after the start of the Force Majeure Event, but no later than 15 days from its start, notify the other Parties in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the agreement; and

(b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.

24.6 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 180 days, the Parties shall meet with a view to agree on mitigating the effects thereof provided that if at the end of 30 days, no further solution is found between the Parties, any one of the Parties may terminate the Agreement by providing written notice and effective date of termination.

24.7 Notwithstanding that the Funding Party may be entitled to payment under the Insurance Cover, if the Agreement is terminated as a result of clause 25.5 above, the Agreement shall be deemed to be null and void *ab initio* and no Party shall have any liability whatsoever to any other Party save for in respect of clauses 27 (*arbitration*), 30 (*governing law and jurisdiction*), 31 (*notices*), 32 (*miscellaneous*) and 33 (*confidentiality*). The Funding Party shall have the right to take back and remove the Facilities (or what remains thereof) or cause such to occur on its behalf from the Site within a period of 90 days of such termination. The Client shall provide reasonable access to the Site and assistance in this regard, provided that any costs of such removal shall be borne by SFA or the Funding Party.

25 EVENTS OF DEFAULT

25.1 **Client Default:** The Client will be in default under this Agreement if any one of the following occur ("**Client Event of Default** "):

(a) failure by the Client to pay amounts due and such failure continues for forty five (45) days from invoice date;

- (b) failure by the Client to provide reasonable Site access to SFA, its employees, agents, contractors and assigns in accordance with the Schedule of Site Access to operate, maintain, repair or replace the Facilities or to meet or act on any other obligation or right under this Agreement for a period longer than ten (10) days;
- (c) the Client becomes insolvent or becomes subject to bankruptcy, insolvency, receivership or similar proceedings, which in the case of such proceedings have not been terminated, stayed or dismissed within Sixty (60) days after it was commenced;
- (d) the Client fails to commence business operations at the Site within 180 days following the Anticipated Opening Date;
- (e) the Client fails to comply with either of the options under clause 21;
- (f) where otherwise, on 30 (thirty) days written notice, the Clients fails to rectify any default under its obligations arising out of this Agreement; or
- (g) does anything which might prejudice the other Parties rights under this Agreement or which might cause the Parties to suffer any loss or damage.

25.2 Client Default Remedies: Upon a Client Event of Default:

- (a) the Funding Party may, in its sole and absolute discretion subject to the provisions of any legislation which may be applicable to this transaction, and without prejudice to any rights it may have under law, and provided that the Client has been given a period of 90 days to remedy any Client Event of Default (save for in the case of clause 25.1(a)), either:
 - (i) terminate the Agreement, retain all payments already made in terms of this Agreement by or on behalf of the Client and claim from the Client the Termination Amount in addition to all arrear Monthly Payments and other amounts due in terms of this Agreement, including interest calculated thereon at the rate set out in clause 18.7 from the date on which such amounts fell due until they are paid;
 - (ii) suspend its requirements or the requirements of SFA to perform its obligations under the Agreement and any obligations in respect to equipment warranties;
 - (iii) proceed with action to enforce performance of the Agreement and to recover damages due to the Client's breach; and
 - (iv) to disconnect, turnoff, sell, or take possession of the Facilities under the Security Interest.

25.3 SFA or Funding-Party Event of Default: The occurrence of any of the events set forth below shall constitute an "SFA Event of Default" under this Agreement:

- (a) SFA becomes insolvent, or becomes the subject of any bankruptcy, insolvency or similar proceeding, which, in the case of any such proceeding that a third party brings against either of them, has not been terminated, stayed, or dismissed within sixty (60) days after it was commenced;
- (b) SFA shall have defaulted in its performance under any other material provision of this Agreement and shall have failed to cure such default within thirty (30) days following delivery to SFA of written notice from the Client to cure such default, or if a cure cannot be effected within such thirty (30) day period, such period shall extend for a reasonable period of time, but not to exceed a total of ninety (90) days, so long as SFA is proceeding diligently to cure such default throughout such period;
- (c) Any material representation made by SFA or the Funding Party herein shall have been false or misleading in any material respect when made;

- (d) If the Facilities cannot proceed to completion as the ultimate result of a Party being unable to obtain an Authorisation;
 - (e) The Transfer Date not having occurred within 180 days following the Opening Date as a result of actions or inactions of SFA; and,
 - (f) If the Facilities do not produce any Energy Output for a period of 30 days consecutively due solely as a result of a Technical Fault or an SFA risk.
- 25.4 If an SFA or Funding Party Event of Default occurs the Client may in its sole and absolute discretion subject to the provisions of any legislation which may be applicable to this transaction, and without prejudice to any rights it may have under law, and provided that the SFA or the Funding Party has been given a period of 60 days to remedy any SFA or Funding Party Event of Default, shall have the right to terminate this Agreement, and the Agreement shall be deemed to be null and void *ab initio* and no Party shall have any liability whatsoever to any other Party save for in respect of clauses 27 (arbitration), 30 (governing law and jurisdiction), 31 (notices), 32 (miscellaneous) and 33 (Confidentiality).
- 25.5 If the Client terminates the Agreement in accordance with sub-clause 25.4 above, SFA shall have the right to remove the Facilities from the Site within a period of 90 days of such termination. The Client shall provide reasonable access to the Site and assistance in this regard, provided that any costs of such removal shall be borne solely by SFA.

26 ARBITRATION

- 26.1 The Parties shall attempt to settle every dispute arising out of or in connection with this Agreement by following the dispute resolution process set forth below.
- 26.2 If any dispute or difference of any kind whatsoever (a "**Dispute**") arises between the Parties in connection with or arising out of this Agreement, the Parties within 30 days shall attempt to settle such Dispute in the first instance by mutual discussions between the Client and the other Party (either SFA or the Funding Party).
- 26.3 Appointment of Arbitrator: In the event of any dispute or difference arising between the Client and the other Parties relating to or arising out of this Agreement, including the implementation, execution, interpretation, rectification, termination or cancellation of this Agreement, the parties shall forthwith meet to attempt to settle such dispute or difference, and failing such settlement within a period of fourteen (14) days, the said dispute or difference shall be referred to and finally resolved by arbitration under the London Court of International Arbitration Rules (the "**Rules**" which Rules are deemed to be incorporated by reference into this clause).
- 26.4 Arbitrators: The number of arbitrators shall be one, and shall be appointed by the London Court of International Arbitration. The seat, or legal place, of arbitration shall be London. The language to be used in the arbitration shall be English.
- 26.5 Arbitration Ruling Binding: The decision of the arbitrator shall, in the absence of manifest error, be final and binding on the parties to the arbitration and may be made an order of Court at the instance of any Party to the arbitration.
- 26.6 Confidentiality: The Parties to the arbitration undertake to keep the arbitration, including the subject matter of the arbitration and the evidence heard during the arbitration, confidential and not to disclose it to anyone except their advisors and if required to do so by a court of law.
- 26.7 Nothing in this clause 26 shall preclude any Party from seeking interim and/or urgent relief from a Court of competent jurisdiction.

27 LIMITATION OF LIABILITY; INDEMNIFICATION

27.1 Limitation of Liability: Notwithstanding any other provision of this Agreement to the contrary, neither of SFA or the Client, nor their respective officers, directors, agents, employees, parent entity, lenders, subsidiaries, or affiliates shall be liable or responsible to the other Party or its parent entities, subsidiaries, affiliates, officers, directors, agents, employees, successors or assigns, or their respective insurers, for incidental, exemplary, punitive, indirect or consequential damages of any nature, connected with or resulting from performance or non-performance of obligations pursuant to 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). Either Party's liability under this Agreement shall be limited to the maximum amounts payable by either under the Agreement. However, nothing in this clause shall limit or exclude any liability for fraud.

27.2 Indemnification: Each of SFA and the Client shall defend, indemnify and save the other Party, its officers, directors, agents, employees, lenders, parent entity, subsidiaries and affiliates, harmless from and against any and all claims, liabilities, actions, demands, judgments, losses, costs, expenses, 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):

(a) caused by or sustained by the Facilities, except to the extent caused by an act of negligence or willful misconduct by an officer, director, subcontractor, agent, employee, parent entity, subsidiary or affiliate of SFA or the Client (as the case may be); or

(b) caused by an act of negligence or willful misconduct of the Client or SFA (as the case may be) or by an officer, director, subcontractor, agent, employee, parent entity, subsidiary, or affiliate of the Party.

27.3 No Consequential Damages: Each Party's liability shall be limited under this Agreement to direct, actual damages only. In no event shall any Party be liable to the other for consequential, incidental, punitive, special or indirect damages.

28 REPRESENTATIONS & WARRANTIES

28.1 Each Party represents and warrants to the other that:

(a) it is legally established to do business in its respective country of incorporation;

(b) the execution and performance of this Agreement is duly authorized as required by its enabling authority or its by-laws, and does not conflict with any law, rules, regulations or requirements affecting or binding that Party;

(c) there is no legal or administrative action pending that prohibits or impairs the Party from performing under the Agreement or might materially and adversely affect the Party's ability to perform its obligations under this Agreement;

(d) this Agreement constitutes a valid, legal and binding obligation of the Party in accordance with the terms hereof;

(e) the execution, delivery and performance by the Party of this Agreement will not contravene any provision of, or constitute a material default under, any other agreement or instrument to which it is a party or by which it is bound.

29 GOVERNING LAW; JURISDICTION:

29.1 Governing Law: This Agreement shall be interpreted and governed in all respects by the laws of England and Wales.

30 NOTICES

30.1 Written Notice: Any notice or other communication required to be given to a Party under or in connection with this Agreement shall be in writing and shall be delivered by hand or sent by pre-paid registered post or other next working day delivery service providing proof of delivery, at the address of each Party as listed in the Agreement, or sent by fax or email to the other Party's main fax number or email (as the case may be) ("**Notice**").

- 30.2 Delivery: Any Notice or communication shall be deemed to have been received if delivered by hand, on signature of a delivery receipt, or if sent by fax or email, at 9.00 am on the next day after transmission, or otherwise at 9.00 am on the second day after posting or at the time recorded by the delivery service.
- 30.3 Change of Address: A Party may notify the other Parties of a change in its delivery address by giving Thirty (30) days prior written notification to the other.
- 30.4 Language: Any Notice given under or in connection with this Agreement shall be in the English language. All other documents provided under or in connection with this Agreement shall be in the English language, or accompanied by a certified English translation.

31 MISCELLANEOUS

- 31.1 This Agreement constitutes the entire Agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 31.2 Whenever the Agreement grants to any Party the right to take action, exercise discretion, or determine whether to approve a proposal of any other Party, the Party possessing the right shall act in good faith and shall deal fairly with each other. In the event of a Dispute, the Parties shall be obligated to make a reasonable and diligent effort to resolve the Dispute at the appropriate level before invoking the dispute resolution procedures under Clause 26. Each of the Parties further expressly agrees that at all times it will exercise its good faith in the administration of this Agreement, and all actions of the Parties shall be designed to facilitate the successful completion of the Facilities by Approved Contractor and to promote the effective and efficient administration of this Agreement. The Parties further commit to act in a timely fashion, consistent with maintaining the Project Schedule to: (a) review all documents; (b) respond to all requests for information; (c) support all applications for Authorisations; (d) respond to requests for access to off site support facilities and other assistance; and (e) resolve all differences and Disputes in a timely fashion.
- 31.3 In the event that any of the provisions of this Agreement are found to be invalid, unlawful, or unenforceable such terms shall be severable from the remaining terms, which shall continue to be valid and enforceable.
- 31.4 No agreement varying, adding to, deleting from or cancelling this Agreement, and no waiver whether specifically, implicitly or by conduct of any right to enforce any term of this Agreement, shall be effective unless reduced to writing and signed by or on behalf of the Parties.
- 31.5 No indulgence granted by a party shall constitute a waiver of any of that party's rights under this Agreement; accordingly, that party shall not be precluded from as a consequence of having granted such indulgence, from exercising any rights against the other which may have arisen in the past or which may arise in the future.
- 31.6 Each Party acknowledges that in entering into this agreement it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.
- 31.7 Each Party to the Agreement and its counsel have reviewed and revised the Agreement. Any ambiguities are not to be resolved against the drafting parties in the interpretation of the Agreement, or any amendment thereto.
- 31.8 This Agreement is drafted in the English language. If the Agreement is translated into any other language, the English language version shall prevail.
- 31.9 This Agreement may be executed in any number of counterparts, each of which, when executed and delivered shall constitute an original of this Agreement, but all the counterparts shall together constitute the same Agreement. No counterpart shall be effective until each Party has executed at least one counterpart.

21.10 Nothing in this Agreement is intended to confer on any person any right to enforce any term of this Agreement which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999.

32. CONFIDENTIALITY

32.1 In this clause 32 "Confidential Information" means any information

- (a) which a Party or any of its affiliates may have or acquire (whether before or after the date of this Agreement) in relation to the customers, suppliers, business, assets or affairs of the Company, as a consequence of the negotiations relating to this Agreement or any other agreement or document referred to in this Agreement or the performance of this Agreement or any other agreement or document referred to in this Agreement;
- (b) which a Party or any of its affiliates may have or acquire (whether before or after the date of this Agreement) in relation to the customers, suppliers, business, assets or affairs of another Party or its Affiliates, as a consequence of the negotiations relating to this Agreement or any other agreement or document referred to in this Agreement or the performance of this Agreement or any other agreement or document referred to in this Agreement; or
- (c) which relates to the contents of this Agreement (or any agreement or arrangement entered into pursuant to this Agreement).

32.2 Information is not Confidential information if

- (a) it is or becomes public knowledge other than as a direct or indirect result of the information being disclosed in breach of this Agreement;
- (b) the Parties agree in writing that it is not confidential;

32.3 Each Party shall at all times use all reasonable endeavours to keep confidential (and to ensure that its officers, employees, agents, affiliates, contractors and the officers, employees and agents of such affiliates and contractors shall keep confidential) any Confidential Information and shall not use or disclose any such Confidential Information except:

- (a) with the written consent of the Party that the information relates to;
- (b) as may be required by the Law;
- (c) if the Confidential Information is already within the public domain; or
- (d) as may be required to fulfil any provision of this Agreement.

32.3 Each Party shall inform any officer, employee or agent or any professional adviser advising it in relation to the matters referred to in this Agreement, or to whom it provides Confidential Information, that such information is confidential and shall require them:

- (a) to keep it confidential, and
- (b) not to disclose it to any third party (other than those persons to whom it has already been disclosed in accordance with the terms of this Agreement).

33 EXHIBITS

33.1 The following Annex are incorporated by reference as part of this Agreement

- Annex A - Payment Terms
- Annex B - Site Plan & Description
- Annex C - Functional Design Specifications
- Annex D - Acceptance Certificate Form
- Annex E - Termination Amount
- Annex F - Client Works
- Annex G - Facilities Availability Guarantee
- Annex H - Facilities Design

IN WITNESS WHEREOF this Agreement has now been entered into the day and year first above written


R S K HAZAREESING

Date: 23 MAY 2014

SIGNED for and on behalf of GC RETAIL LTD

in the presence of CORINNE L'ECLUSE

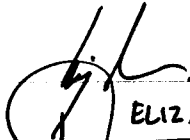




DAVID McDONALD (Director)

Date: 04 April 2014

SIGNED for and on behalf of SFA INVESTEMENTS (KENYA) LTD

in the presence of



ELIZABETH MUIR



JAMES IRONS (Director)

Date: 04 April 2014

SIGNED for and on behalf of SOLAR4AFRICA (MAURITIUS) LTD

in the presence of


ELIZABETH MUIR


DAROON
POINOSAMY

ANNEX PAYMENT TERMS

A

Contract Price

US\$ 2,403,324 excl. of VAT

4K
⑩

ANNEX B SITE PLAN & DESCRIPTION

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①

ANNEX C FUNCTIONAL DESIGN SPECIFICATIONS

GENERAL			
Installed Capacity:	858.33 kWp	Diesel Parallel Capability	Yes
Rated Voltage:	3 / N / PE, 230 V / 400 V:	Delivery Points	2
Expected Performance Ratio:	±78%	kWh Metering Points	2
Energy Potential	1,245,591 kWh/annum	Contract Energy Output	14,384,851 kWh
ARRAY CONFIGURATION			
ARRAY 1&2			
Installed Capacity:	64.26kWp	No of Sub-Arrays:	5
Rated Voltage:	3 / N / PE, 230 V / 400 V:	Diesel Parallel Capability	Yes
Annual Production:	92.470 kWh/annum	Performance Ratio:	78.3%
ARRAY 3&4			
Installed Capacity:	179.01 kWp	No of Sub-Arrays:	6
Rated Voltage:	3 / N / PE, 230 V / 400 V:	Diesel Parallel Capability	Yes
Annual Production:	225.089 kWh/annum	Performance Ratio:	77.4%
ARRAY 5,6,8			
Installed Capacity:	106.335 kWp	No of Sub-Arrays:	7
Rated Voltage:	3 / N / PE, 230 V / 400 V:	Diesel Parallel Capability	Yes
Annual Production:	155.355 kWh/annum	Performance Ratio:	79.1%
ARRAY 7,9,10			
Installed Capacity:	145.35 kWp	No of Sub-Arrays:	8
Rated Voltage:	3 / N / PE, 230 V / 400 V:	Diesel Parallel Capability	Yes
Annual Production:	210.903 kWh/annum	Performance Ratio:	79.0%
ARRAY 11,12,13,14,15			
Installed Capacity:	262.395 kWp	No of Sub-Arrays:	8
Rated Voltage:	3 / N / PE, 230 V / 400 V:	Diesel Parallel Capability	Yes
Annual Production:	384.671 kWh/annum	Performance Ratio:	79.7%
ARRAY 17,18,19			
Installed Capacity:	75.735 kWp	No of Sub-Arrays:	7
Rated Voltage:	3 / N / PE, 230 V / 400 V:	Diesel Parallel Capability	Yes
Annual Production:	110.043 kWh/annum	Performance Ratio:	78.8%
ARRAY 20,21			
Installed Capacity:	25.245 kWp	No of Sub-Arrays:	2
Rated Voltage:	3 / N / PE, 230 V / 400 V:	Diesel Parallel Capability	Yes
Annual Production:	37.059 kWh/annum	Performance Ratio:	79.6%
MAJOR COMPONENTS			
PV MODULES			
Name Of Manufacturer:	Yingli	Total Quantity:	±3,462
Place Of Manufacture:	China	Temperature Coefficient:	0.42% per °C
Photovoltaic Cell Technology:	Polycrystalline	Avg. Degradation Coefficient:	0.7% per annum
Make Of Cells:	Yingli	Maximum Static Load: Front	5,400 Pa
Module No:	YL255P-29B	Maximum Static Load: Back	2,400 Pa
Efficiency Of PV Cells:	15.6%	Manufacturers Power Performance Guarantee:	25 Years
Rated Peak Power (Pmax):	255 W	Manufacturers Warranty:	10 Years
Voltage At Pmax:	30.0 V	Inclination:	As per drawings
Current At Pmax:	8.49 A	Azimuth:	As per drawings
Open Circuit Voltage (Voc):	37.7 V		
Short Circuit Current (Isc):	9.01 A		

120

INVERTERS			
Make:	SMA Solar Technology		
Inverter model no:	STP 10000TL-10	Total quantity:	18
Nominal AC Power (Output):	10000 W	Max DC Power (Input):	10200 W
AC Voltage Range (Output):	3 / N / PE, 230 V / 400 V;	Max DC Voltage (Input):	1,000 V
Max Current (Output):	16 A	AC Grid Frequency Range:	44Hz: 55Hz
Max Efficiency:	98.1%	Manufacturers Warranty:	5 Years
Inverter model no:	STP 12000TL-10	Total quantity:	32
Nominal AC Power (Output):	12000 W	Max DC Power (Input):	12250 W
AC Voltage Range (Output):	3 / N / PE, 230 V / 400 V;	Max DC Voltage (Input):	1,000 V
Max Current (Output):	19.2 A	AC Grid Frequency Range:	44Hz: 55Hz
Max Efficiency:	98.1%	Manufacturers Warranty:	5 Years
Inverter model no:	STP 15000TL-10	Total Quantity:	6
Nominal AC Power (Output):	15000 W	Max DC Power (Input):	15340 W
AC Voltage Range (Output):	3 / N / PE, 230 V / 400 V;	Max DC Voltage (Input):	1,000 V
Max Current (Output):	24.0 A	AC Grid Frequency Range:	44Hz: 55Hz
Max Efficiency:	98.1%	Manufacturers Warranty:	5 Years
Inverter model no:	STP 17000TL-10	Total quantity:	11
Nominal AC Power (Output):	17000 W	Max DC Power (Input):	17410 W
AC Voltage Range (Output):	3 / N / PE, 230 V / 400 V;	Max DC Voltage (Input):	1,000 V
Max Current (Output):	24.6 A	AC Grid Frequency Range:	44Hz: 55Hz
Max Efficiency:	98.1%	Manufacturers Warranty:	5 Years
CARPORT PV MOUNTING STRUCTURES			
Make:	Schletter GmbH		
Model no:	Park@Sol-B1	Total Area Covered:	±1800m ²
Parking Bay:	Single row	Material:	Painted Mild Steel
Clearance Height:	Various (As per drawings)	Manufacturers Warranty:	10 Years
Model no:	Park@Sol-B3	Total Area Covered:	±4000m ²
Parking Bay:	Double row	Material:	Painted Mild Steel
Clearance Height:	Various (As per drawings)	Manufacturers Warranty:	10 Years
DIESEL PARALLEL CONTROL MODULE			
Make:	SMA Solar Technology	Model no:	Fuel Save Controller
Module:	Data Acquisition Module	Interface module	Main Controller
Quantity	4	2	2

ANNEX D ACCEPTANCE CERTIFICATE

ACCEPTANCE CERTIFICATE

Certificate No. []

To:
Address:

To: [CLIENT]
Address:

Tel:
Fax:

Attention:

Attention:

AGREEMENT: Pay-By-Solar Project Agreement

DATE OF SIGNATURE: []

Pursuant to Clause 5 of the Agreement it is hereby certified that the Facilities have been successfully completed and met the minimum requirements of the Tests on Completion specified in the Agreement. In accordance with the terms of the Agreement, the Client hereby takes over the Facilities, together with the responsibility for care and custody and the risk of loss thereof as of (and including) the Transfer Date.

The Works described in the attached schedule are still outstanding and shall be corrected within the defects correction period stated below. SFA remains liable for correcting of any defects notified to SFA during a period of 60 days.

	Day	Month	Year
Transfer Date			

Works checked by SFA

Signature Name Date

Certified by Funding Party:

Signature Name Date

Certified by the Client:

Signature Name Date

Encl. Outstanding Items List

ANNEX E TERMINATION AMOUNT

The Termination Amount is determined based on the Transferred Liability of US\$2 402 324 reducing monthly on a straight-line basis over the Agreement Term

Months (Remaining)	Termination Amount (US\$)	Months (Remaining)	Termination Amount (US\$)
143	2,386,634	109	1,819,183
142	2,369,945	108	1,802,493
141	2,353,255	107	1,785,803
140	2,336,565	106	1,769,114
139	2,319,875	105	1,752,424
138	2,303,186	104	1,735,734
137	2,286,496	103	1,719,044
136	2,269,806	102	1,702,355
135	2,253,116	101	1,685,665
134	2,236,427	100	1,668,975
133	2,219,737	99	1,652,285
132	2,203,047	98	1,635,596
131	2,186,357	97	1,618,906
130	2,169,668	96	1,602,216
129	2,152,978	95	1,585,526
128	2,136,288	94	1,568,837
127	2,119,598	93	1,552,147
126	2,102,909	92	1,535,457
125	2,086,219	91	1,518,767
124	2,069,529	90	1,502,078
123	2,052,839	89	1,485,388
122	2,036,150	88	1,468,698
121	2,019,460	87	1,452,008
120	2,002,770	86	1,435,319
119	1,986,080	85	1,418,629
118	1,969,391	84	1,401,939
117	1,952,701	83	1,385,249
116	1,936,011	82	1,368,560
115	1,919,321	81	1,351,870
114	1,902,632	80	1,335,180
113	1,885,942	79	1,318,490
112	1,869,252	78	1,301,801
111	1,852,562	77	1,285,111
110	1,835,873	76	1,268,421

91 2

Months (Remaining)	Termination Amount (US\$)
75	1,251,731
74	1,235,042
73	1,218,352
72	1,201,662
71	1,184,972
70	1,168,283
69	1,151,593
68	1,134,903
67	1,118,213
66	1,101,524
65	1,084,834
64	1,068,144
63	1,051,454
62	1,034,765
61	1,018,075
60	1,001,385
59	984,695
58	968,006
57	951,316
56	934,626
55	917,936
54	901,247
53	884,557
52	867,867
51	851,177
50	834,488
49	817,798
48	801,108
47	784,418
46	767,729
45	751,039
44	734,349
43	717,659
42	700,970
41	684,280
40	667,590
39	650,900
38	634,211

Months (Remaining)	Termination Amount (US\$)
37	617,521
36	600,831
35	584,141
34	567,452
33	550,762
32	534,072
31	517,382
30	500,693
29	484,003
28	467,313
27	450,623
26	433,934
25	417,244
24	400,554
23	383,864
22	367,175
21	350,485
20	333,795
19	317,105
18	300,416
17	283,726
16	267,036
15	250,346
14	233,657
13	216,967
12	200,277
11	183,587
10	166,898
9	150,208
8	133,518
7	116,828
6	100,139
5	83,449
4	66,759
3	50,069
2	33,380
1	16,690
0	-

110

ANNEX F CLIENT WORKS

The Client shall arrange for or procure at its costs the following works (the "**Client Works**"):

- (a) Off-loading, equipment storage, lifting of equipment components to roof level, welfare facilities for workers, H&S supervision, site security
- (b) Supply and installation of concrete slab and concrete plinths for the car park structures
- (c) Supply and installation of conduit/cable routing for DC, AC and data cable wiring between each carport structure and to the main Interconnection Point;
- (d) Provision of suitable internet connection for monitoring
- (e) Suitable connection switchgear to the distribution boards in each proposed sub-station
- (f) Architectural finishes to the perimeter of the car port areas

ANNEX G AVAILABILITY GUARANTEE

The Facilities Availability Factor shall be the average Availability of the each inverter expressed as a percentage of the Functional Time (defined below) during which each inverter produced Energy Output.

Functional Time:

The "Functional Time" is defined as the time between the hours of 7am and 5pm for each day of an Operating Year with the following periods excluded:

- (a) A period of 14 days shall be allowed for maintenance services performed by SFA.
- (b) any 15 minute period when (i) KPLC grid is down and (ii) the relevant Client's electric-generator is not operating or no generator is connected to that inverter;
- (c) any 15 minute period during which the inverter has been power limited by the *Solar Fuel Saver* such that it's Energy Output is zero (due to the Client's electric load being insufficient to take the Energy Output) and;
- (d) any 15 minute period where the radiation level falls below 50W/m^2 during that time period (to account for an eclipse, excessive smoke, air pollution or storm cloud cover) under which conditions the inverter automatically ceases from providing power to the Private Distribution Network

Measurement:

In order to determine the Facilities Availability Factor and Functional Time, the monitoring system maintained by SFA shall monitor and log the following data on an ongoing basis:

- (a) Time of day;
- (b) KPLC grid ("GRID") and electric generator ("GEN") functionality status, where 0 = off-line and 1=on-line;
- (c) Radiation level ("H");
- (d) Inverter status (0/1) ("INV"), where 0 = off-line and 1= on-line; and;
- (e) Solar Fuel Saver status per inverter (0/1) ("SFS"), where 1 = not power limited, 0 = power limited

Calculation:-

$$\text{Inverter availability} = \sum_{i=1}^{40} \frac{15 \text{ min period when INV} = 1}{40 - \text{excluded 15 min period (SFS} = 1, H \leq 50\text{Wm}^2, \text{ GRID} = 0 \text{ and Gen} = 0)}$$

The Facilities Availability shall be the simple average availability of each inverter

92

ANNEX H FACILITIES DESIGN