



POWER PURCHASE AGREEMENT

BETWEEN

BXC COMPANY (GHANA) LIMITED

AND

**ELECTRICITY COMPANY OF GHANA
LIMITED**

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This Power Purchase Agreement ("PPA" or "Agreement") is made on the 17th day of June in the Year of Our Lord Two Thousand and Thirteen (2013) BETWEEN **BXC COMPANY (GHANA) LIMITED** a Company registered under the Laws of Ghana, and acting per its President of P.O. Box KN5273, KANESHIE, ACCRA in the Republic of Ghana, aforesaid (hereinafter referred to as the "Seller" which expression shall, where the context so admits or requires, includes its successors, agents and assigns) of the one Part and **ELECTRICITY COMPANY OF GHANA LIMITED** a Limited Liability Company registered under the Laws of Ghana, and acting per its Managing Director of P.O. Box GP 521, Accra in the Republic of Ghana, (hereinafter referred to as the "Buyer" which expression shall, where the context so admits or requires, includes its successors agents and assigns) of the second Part.

WHEREAS:

- A. the Buyer is a limited liability company engaged in the business of distribution and sale of electricity;
- B. the Seller is a company engaged in the production and sale of renewable energy;
- C. the Seller has submitted a proposal to the Buyer for the sale of electrical energy from a solar power production Facility in Ghana;
- D. the Seller's project and tender of electrical energy for sale is recognised as [a Renewable Energy Producer] by the Energy Commission;
- E. the Buyer is permitted to purchase electrical energy under the applicable laws and regulations of the Republic of Ghana;
- F. the Seller is a company duly incorporated and validly existing under the laws of Ghana, has all requisite corporate and legal authority to execute this Agreement, and is permitted by applicable laws and regulations to sell independently produced power; and
- G. the Seller proposes to sell and deliver, and the Buyer has agreed to purchase and accept delivery of, the offered electrical energy to produce by the Seller, all pursuant to the terms and conditions set forth in this Agreement.

NOW THEREFORE THE PARTIES TO THIS CONTRACT AGREE AS FOLLOWS:

1.0 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, unless the context otherwise requires, the following words and phrases shall have the meanings given to them below:

"Agreement": means this Power Purchase Agreement, inclusive of all Schedules; Appendices; Annexes; as may be amended or supplemented from time to time as provided herein;

"Annual Contract Volume": means the volume of energy estimated by the Seller to be delivered to in the relevant Contract Year;

"Annual Energy": means the aggregate of net electrical output of the facility within a calendar year;



"Arbitrator": means an arbitrator appointed in accordance with the dispute resolution procedure set out in Clause 22;

"Authorisation": means any approval, consent, licence, permit, authorisation or other permission granted or to be granted by a Government Authority required for the enforcement of rights or performance of obligations under this Agreement by a Party;

"Authorised Person": means, in the case of the Seller, the person nominated from time to time to represent the Seller;

"Billing Period Invoice": means a monthly invoice from the Seller to the Buyer setting forth payments due in accordance with Clause 8;

"Change in Law": means the occurrence of any of the following after the execution of this Agreement:

a) The enactment of a new Ghanaian law;

b) The repeal or modification or re-enactment of any existing Ghanaian law;

c) A change in the interpretation or application of any Ghanaian law by any Governmental Authority having direct authority for its interpretation or application;

d) The imposition by a Governmental Authority of a requirement for any authorisation which did not exist at the date of this Agreement; which establishes a material increase or material reduction in revenue as a consequence of any requirement for the design, construction, financing, ownership, operation or maintenance of the Project that is materially more restrictive than the most restrictive requirements (i) in effect as of the date of this Agreement (ii) specified in any connection with such application for any Authorisation;

"Check Meter" – means any of the check meters owned, operated and maintained by the ETU at the Points of Delivery to check the Metered electrical energy. The Check Meter is more specifically identified and described in Schedules 2;

"Commencement Date": means the date in which each facility is commissioned for operation;

"Commercial Operation Date": means the date when the Seller commences delivery of Electrical Energy to the Buyer;

"Connected Capacity": shall mean the contract capacity of twenty (20) MW as in Schedule A;

"Consequential Loss": means all losses, costs and financial harm not directly (whether or not foreseeable) resulting from any breach by a Party of its obligations hereunder;

"Contract Year": means the period from 1st January in any year until and including 31st December in the same year, or as the Parties may agree in writing;

"Day" or "day": means a period of twenty-four (24) Hours beginning at 00:00 Hours on a day and ending at 24:00 Hours on that day;

"Dispatch Instruction": means an instruction given by ETU to dispatch the generating station forming part of the Project;

"Dispatch Schedule": means a schedule showing the periods when the Seller's power station is expected to be dispatched;

"Buyer": means a person licensed by the Energy Commission to distribute and sell electricity without discrimination to consumers in an area or zone designated by the Board of the Energy Commission;

"Distribution System": means the distribution system below 161KV including but not limited to all distribution lines and equipment, transformers and associated equipment, relay and switching equipment and protective devices and safety and communications equipment owned and/or operated by the Buyer;

"Effective Date": means the date on which all of the conditions set forth in Clause 3.1 have been satisfied or waived by the Parties;

"Emergency Conditions": mean conditions giving rise to an emergency as defined in the National Electricity Grid Code of the Republic of Ghana;

"Environmental Attributes": means all state, municipal, regional or global issued offsets, allowances, Renewable Energy Certificates, carbon credits, Green-certifications, investment tax credits, production tax credits or other credits, entitlements, products, certificates or valuations earned by or in connection with, or otherwise attributable to, (a) the Project, (b) the electricity produced by the System, or (c) the System's displacement of conventional energy generation under or with respect to any state or federal renewable portfolio standards, including, without limitation, the renewable portfolio standards of the country of Ghana, laws or regulations that provide offsets, allowances, or credits related to emissions or electricity generation;

"Electrical Energy": means electricity measured in MWh delivered by the Seller to the Buyer;

"Energy Commission": means the Ghana Energy Commission, a statutory body under the Energy Commission Act, 1997 Act 541;

"Facility": means the Seller's solar generation plant used for the production of electricity;

"GRIDCo": refers to the company established in accordance with the Energy Commission Act, 1997, (Act 541) and the Volta River Development (Amendment) Act, 2005 Act 692, which provides for the establishment and exclusive operation of the NITS;

"Event of Default": means an event constituting grounds on which a Party may terminate this Agreement, as set out in Clause 19;

"Feed-In-Tariff ("FIT")": means the approved price by the PURC for the electricity generation from the solar facilities and shall have the meaning ascribed to such term in Clause 8.1;

"Force Majeure Event": means an event constituting Force Majeure as defined under Clause 17;

"GHS": means the currency that is the legal tender of the Republic of Ghana;

"Governmental Authority": means any department, authority, instrumentality, agency or other relevant entity from which an Authorisation is to be obtained from time to time and any authority, body or other person having jurisdiction under the Laws of Ghana with respect to the Seller;

"Grid Point": means the connection stud of the last line side isolator located on the NITS of the Buyer;

"Gigawatt hours" ("GWH"): means one thousand megawatt hours of Electrical Energy;

"Hour": means each continuous period of sixty (60) minutes commencing with the first minute of each of the twenty-four (24) denominated hours in any Day;

"Interconnection Point": means the location where the Seller System interconnects with the Buyer's Distribution Network;

"kV": means kilovolts or 1,000 volts;

"kW": means a kilowatt or 1,000 watts;

"kWh": means one (1) kilowatt hour or one unit;

"Laws of Ghana": means the laws of Ghana and all orders, rules, regulations and decrees, judgments and notifications made pursuant thereto as such laws, orders, rules, regulations, decrees, judgments and notifications may be modified, vacated or amended from time to time;

"Legal Requirement": means any requirements established under any statute, law, regulation or other legislation, or any decree, order or directive emanating from any Governmental Authority of the Republic of Ghana, in respect to the Seller;

"LIBOR": means the London Inter-Bank Offered Rate of interest for three-month deposits of Euro-Dollars displayed on page "LIBOR01" of the Reuters Money Rates Service (or any other page that replaces "LIBOR01" for the purpose of displaying the British Bankers Association ("BBA") interest settlement rates for such deposits of Euro-Dollars in the London Inter-Bank market) on the date of determination, or in the event that the Reuters Money Rates Service, or any successor thereto, no longer provides such information, such other service as may be agreed by the Buyer and the Seller that provides the BBA interest settlement rates for such deposits of Euro-Dollars in the London Inter-Bank market and any other information previously provided on the page "LIBOR01";

"Main Meter": means main meter and associated metering equipment owned, operated and maintained by ETU at the Point of Delivery and used to measure and record Metered electrical energy at the Point of Delivery. The Main Meter is more particularly identified and described in Schedule 2;

"Market Operator": means special purpose individual entity charged with conducting wholesale transaction (bids and offers) of electricity.

"Metered electrical energy": is the electricity (expressed in MWh), as recorded by the Main Meter or the Check Meter or estimated and computed in accordance with Schedule 3;

"Metering System": means the Main Meter and the Check Meter and all associated equipment;

"Month": means a calendar month;

"MUST RUN Facility": means the Seller has the operating control over the amount and timing of Electrical Energy to be generated by the facility, subject only to emergencies and such directions as may be issued by the Buyer for the protection of its electrical system;

"MW": means a megawatt or 1000 kilowatts or 1,000,000 watts;

"MWh": means one (1) megawatt hour;

"National Electricity Grid Code": means the National Electricity Grid Code, Republic of Ghana, 2009 as may be amended from time to time which contains the technical and operational rules of practice and standards of performance developed and approved by the Board of Energy Commission to facilitate the operations related to the bulk transmission of electricity within the NITS;

"National Interconnected Transmission System" ("NITS"): means the electric high voltage transmission system, including but not limited to all transmission lines and equipment, transformers and associated



equipment, relay and switching equipment and protective devices and safety and communications equipment owned and/or operated by the ETU and required for the performance by ETU of its obligations under this Agreement;

"Notice of Intent to Terminate": shall have the meaning ascribed thereto in Sub-clause 20.1;

"Safety Operational Procedures": means the detailed procedures for switching in the electric system to be developed by the Parties and to be attached to the PPA, described under Section 33;

"Party" or "Parties": means the entities executing this PPA;

"Point of Delivery": has the meaning set out in Clause 5.2;

"Point of Supply": has the meaning set out in Clause 5.1;

"Power Factor": means the cosine of an angle whose tangent is a ratio of reactive power to active power;

"Prudent Operating Practice": means generally accepted industry operating and maintenance practices as required by the National Electricity Grid Code and other Regulations;

"PURC": Public Utility Regulatory Commission of the Republic of Ghana;

"Renewable Energy Certificate" or "REC": means an SREC, certificate, credit, allowance, green tag or other transferable indicia, howsoever entitled, created by an applicable program or certification authority indicating generation of a particular quantity of energy, or product associated with the generation of a specified quantity of energy from a renewable energy source by a renewable energy facility;

"SCADA": means Supervisory Control And Data Acquisition, in the context of this Agreement being a system that allows an electric system operator to remotely monitor and control elements of an electric system and retrieve data recorded by the Metering System;

"Schedules": means the schedules attached to this Agreement and forming an integral part of this Agreement;

"Scheduled Outage": means the interruption of the flow of Energy as a consequence of the disconnection of generation or transmission facilities in a previously scheduled program;

"Solar Alternative Compliance Credit" or "SACC": means a payment made to the designated organization or international provider in lieu of submitting one SREC in accordance with international guidelines;

"Solar Renewable Energy Certificate" or "SREC": means a certificate issued by the designated organization or international provider which represents the renewable attributes of one (1) megawatt hour of electric production from solar generation;

"Supply Period": means the period commencing on the first Commercial Operations Date and concluding on the expiration of the Term or the earlier termination of this Agreement;

"Supply Point": means point at which the Seller delivers Electrical Energy to the ETU to be delivered at the Point of Delivery of the Buyer;

"Term": has the meaning ascribed thereto in Clause 2;

"Termination Notice": shall have the meaning ascribed thereto in Sub-clause 20.2;

“Unscheduled outage”: means any interruption in the flow of Energy due to a fault or defect of the solar facility that results in an immediate disconnection of the facility, or as soon as the manoeuvre of the electric systems allows;

“US Dollars” or “US \$”: the lawful currency of the United States of America;

“Seller”: means a person licensed by the Energy Commission to install, and operate a facility to procure or produce electricity for sale to a Buyer for distribution and sale to consumers;

“Seller System”: means the electric power network, the lines, equipment and associated protective devices, safety and communication equipment owned by the Seller.

“Working Day”: means any Day of the week other than a Saturday or Sunday, or other day on which banking institutions are required by law to remain closed;

1.2 Interpretation

In this Agreement:

1.2.1 References in the singular shall include references in the plural and vice versa, and words denoting natural persons shall include corporations and any other legal entity and vice versa;

1.2.2 References to the word “including”, “includes” and “include” are deemed to be followed by the words, “without limitation”;

1.2.3 Except to the extent that the context requires reference to a particular Clause, Sub-clause or Schedule shall be references to that Clause, Sub-clause or Schedule in or to this Agreement;

1.2.4 Except to the extent that the context requires any reference to “this Agreement” or any other agreement or document is a reference to it as amended, supplemented or notated from time to time and includes a reference to any document which amends, is supplemental to, notates, or is entered into, made or given pursuant to or in accordance with any terms to it;

1.2.5 The headings and paragraph numbers are inserted for convenience only and are to be ignored for the purposes of construction;

1.2.6 Calculations carried out pursuant to this Agreement will be rounded to four (4) decimal places; and

1.2.7 The language of negotiation of this Agreement has been English, this Agreement is executed in English, and this English text shall prevail for the purposes of determining the intention of the Parties and in any construction of this Agreement.

1.2.8 Capitalized terms used in this Agreement shall have the same meaning specified in Section 1.0.

1.2.9 The words “herein”, “hereby”, “hereof” and “hereunder” shall refer to this Agreement as a whole and not to a particular section or subsection of this Agreement.

1.2.10 References to this Agreement shall include a reference to all appendices, annexures, schedules and exhibits hereto, as the same may be amended, modified, supplemented or replaced from time to time.

1.2.11 References to any agreement, document or instrument shall mean such agreement, document or instrument as the same may be amended, modified, supplemented or replaced from time to time, but



only to the extent such amendment, modification, supplement or replacement is not prohibited by the terms of this Agreement.

2.0 TERM/DURATION OF AGREEMENT

- 2.1 This Agreement shall continue in force and effect for twenty (20) years following from the Effective Date, provided that this term may be extended or reduced in accordance with the terms of this Agreement (the "Term").
- 2.2 Unless this Agreement has been terminated prior to such date, not later than two (2) years prior to the end of the Term, at the request of either Party, the Seller and the Buyer, this Agreement may be extended for an additional five (5) years with mutual consent between the Parties.

3.0 CONDITIONS PRECEDENT TO EFFECTIVENESS OF AGREEMENT

- 3.1 This Agreement shall become effective when the following conditions are fulfilled and then the Parties shall confirm to each other the Commercial Operations Date:
- a) Completion of an Interconnection between the Seller's facility and the Buyer's Distribution Network
 - b) Copy of this Agreement lodged with the Energy Commission, PURC and GRIDCo
 - c) The attainment of Financial close for the Project
 - d) An approved Feed-In-Tariff by the PURC and framework for its implementation
- 3.2 The PPA is subject to further terms and understanding that the Parties herein such as may agree upon to take care of contingencies and circumstances, which are presently not anticipated.

4.0 SALES AND PURCHASE OF ENERGY

- 4.1 With effect from the Commercial Operations Date, the Seller shall, during the term of this Agreement, supply and sell Electrical Energy to Buyer at Point of Supply on the Buyer's Distribution Network as indicated in Clause 5, and the Buyer shall take and purchase the same from the Seller under the terms and conditions of this Agreement.
- 4.2 Not Used
- 4.3 Starting from the Commercial Operation Date of the first unit, the Buyer is obligated to buy all energy produced. The Buyer shall pay the Feed-In-Tariff corresponding to the energy that is not taken by the Buyer, but that is produced by the Seller according to the Energy Production Program for the corresponding month.
- 4.4 The Annual Energy used to define the price of the Energy to be sold under this Agreement is 36.5 GWH.
- 4.5 In the event that a Market Operator, independent from the Seller or the Buyer, is put in place, the determination of the portion of the Annual Energy scheduled to be delivered on each day of the week ahead shall be made by the Market Operator.

- 4.6 The Parties hereby declare and recognize that the Energy contracted pursuant to the PPA is the sole object of this PPA and that any other profits or charges that may be generated by the solar Facility belong to the Seller, unless otherwise noted in Section 30.2.

5.0 POINT OF SUPPLY AND DELIVERY

- 5.1 The **Point of Supply** shall be the transmission pole that shall be immediately adjacent to the facility and the Seller's connection at the Seller's switchyard ("Connection Point").
- 5.2 The **Point of Delivery** is the point at which the Buyer accepts Electrical Energy from the Seller.
- 5.3 Not Used
- 5.4 The Seller shall provide information to GRIDCo, on its availability and the expected Dispatch Schedule for its generating facilities in a format and frequency as may reasonably be requested by GRIDCo, provided that this schedule so provided shall not be binding on the Seller.
- 5.5 In accordance with the information provided under Clause 5.4, the Seller shall dispatch the generating facilities and deliver Electrical Energy to the Point of Supply, subject to clause 5.6.
- 5.6 Under Emergency Conditions, the Seller shall dispatch the generating facilities in accordance to Dispatch Instructions provided by GRIDCo.

6.0 ANNUAL ENERGY REPORTING OF SELLER

- 6.1 The Seller will prepare an Annual Energy Production Program which will consist of two of each six (6) months' production programs to be commenced on January 1 and July 1 of each year. Production programs shall be based upon net production. The Seller shall inform the Buyer of the Annual Energy Production Program relating to energy to be produced during the year, including Unit Commercial Operating Dates of each unit, no later than November 30th of the preceding year.
- 6.2 The Annual Program shall contain the following:
- Estimated energy production by the facilities on an annual, monthly and weekly basis.
 - Annual load curve not including forced outages
 - Anticipated level of forced outages (for information only)
 - The dates and estimated commencement and termination hours for maintenance pursuant to a maintenance schedule.
- 6.3 The Buyer may request revisions to the maintenance schedule proposed by the Seller in the Annual Program in order to accommodate the annual load and maintenance requirements of the Buyer's Distribution Network and other power plants connected to the NITS. The Buyer may not request revisions which inhibit the Seller to comply with maintenance requirements of the facilities, or to comply with applicable laws and regulations and the terms of this Agreement. The Buyer shall utilize its best efforts to accommodate the generation and maintenance requirements of the facilities, at least as much as the generation and maintenance requirements of other power plants connected to the NITS.



- 6.4 Within 30 days following the end of each fiscal year during the Commercial Operations of the facilities, the Seller will submit to the Buyer the annual report relating to the plant(s) operations and statistical data of the facilities for the previous year.

7.0 MONTHLY ACTIVITY REPORT

- 7.1 The Seller shall prepare monthly activity reports for the facilities covering the activities for the previous month by the first week of each month and the Commercial Operation Date and shall submit the same to the Buyer.
- 7.2 The Seller represents and warrants that as of Commercial Operation Date it will have installed capacity sufficient to meet the production per the Annual Energy Production Program. Thereafter, not less than 30 days before the end of each Contract Year, the Seller shall confirm in writing with the Buyer that it continues to have sufficient power and energy to satisfy the production per the Annual Energy Production Program.

8.0 PRICING AND PAYMENTS

- 8.1 The Buyer shall pay to the Seller:

the charges for Metered electrical energy delivered to the Buyer at the Point of Delivery in accordance with Schedule 1 to this Agreement ("Feed-In-Tariff") or pursuant to the Annual Energy Production Program, whichever is deemed applicable.

- 8.2 The Seller shall prepare and submit to the Buyer not later than the 5th of each month following any month during which Metered electrical energy is supplied to the Buyer, the result of the meter readings (including time and date of the reading) to the Buyer.

- 8.3 The Seller shall submit to the Buyer or its designated agent by the 15th day of the ensuing month an invoice (the "Billing Period Invoice") showing all intermediate calculations and shall state:

- (a) the metered quantities comprising the Electrical Energy delivered by the Seller to the Buyer determined in accordance with Schedule 3 to this Agreement;
- (b) the Feed-In-Tariff determined in accordance with Schedule 1 to this Agreement; and
- (c) any other sums payable by the Buyer to the Seller under this Agreement.

- 8.4 The Billing Invoice shall contain enough details about the consumption of Electrical Energy at the Point of Delivery and under each other applicable charge, in order to allow the Buyer to confirm the accuracy of the charges with respect to the Agreement.

- 8.5 The Billing Period Invoice shall be sent to the Buyer initially by fax mail or e-mail followed by a hard copy. The fax or email shall serve as the official Billing Period Invoice.

- 8.6 The Feed-In-Tariff shall be invoiced monthly in US Dollars and shall be payable in Ghana Cedis at the exchange rate approved by the PURC.



8.7 The Buyer shall make payments not later than thirty (30) days following the delivery of the Billing Period Invoice, by cheque to a nominated bank account notified to the Buyer by the Seller in this Agreement.

8.8 At COD, the Buyer shall provide a guarantee of payment as follows:

- (a) Bank Guarantee (BG) acceptable to the Seller with an international bank acceptable to the Parties. The instrument shall be in favour of the Seller for an amount of US\$2,000,000 (Two Million United States Dollars). The purpose of this BG is to guarantee that the power will be purchased and paid for by the Buyer when the project is in operation. See Schedule 4 for an example of the BG.

8.9 Not Used

8.10 Any amount in arrears (except in dispute) beyond the due date shall bear no interest.

8.11 Not Used

8.12 Suspension of supply shall not relieve the Buyer of the obligation to pay for already supplied power.

9.0 FAILURE TO DELIVER ANNUAL ENERGY

9.1 Subject to failure to supply Electrical Energy due to limitations established in Clause 17 and/or maintenance requirements, the Seller shall sell and deliver all the electricity produced pursuant to the Annual Energy Production Program in accordance with the terms of this Agreement.

9.2 If for some reason the Seller is unable to deliver the planned Electrical Energy, the Seller will provide the Buyer with written notice within 24 hours.

10.0 METERING AND ENERGY MEASUREMENT

10.1 GRIDCo shall install, own and maintain the Main Meter(s) and Check Meter(s) at the Point of Delivery to measure the Electrical Energy received by the Buyer. The meters, current and voltage transformers and secondary circuits feeding the meters shall be protected against external interference. The circuits and protection thereof once approved by the Parties shall be sealed. These seals shall only be broken by GRIDCo's personnel in the presence of the Seller and the Buyer.

10.2 The Buyer and the Seller shall have the option to install a Customer Check Meter(s) at the Point of Delivery.

10.3 The Main and Check Meters shall be equipped with a mechanism preventing its reverse rotation (claw meters) and have the functional capability to determine the metered Electrical Energy quantities as set out in Schedule 2 to this Agreement.

10.4 The meter reading data provided shall consist of maximum demand (KW), active energy (kWh), power factor (pf) and apparent power (KVA).



- 10.5 GRIDCo shall have the Main and Check Meters be re-calibrated at least once every twelve months or whenever either Party has reason to believe that the equipment is no longer performing within the standards of accuracy prescribed and has given notice to the other Party. The testing and re-calibration shall be carried out in the presence of both Parties 'duly Authorised Persons appointed in writing.
- 10.6 The Seller shall use the meter reading data provided by GRIDCo to determine the Electrical Energy received by the Buyer in accordance with the National Electricity Grid Code, Republic of Ghana, October, 2009 and any amendment thereto. If for any reason the Main and Check Meters are unserviceable or fails, the Electrical Energy supplied/consumed shall be estimated on the basis that it is the same as for other days, preferably of the same month, on which similar load existed.
- 10.7 GRIDCo or his representative shall read the meter in the presence of the Buyer and Seller or their representative at 12:00 on the last Day of each successive month (or such other Day as the Parties may agree) for determination of the Electrical Energy received by the Buyer and shall notify the Buyer in writing at least 48 hours in advance of the time of reading the meter.
- 10.8 The representatives of the Seller and the Buyer shall jointly witness the meter reading report prepared and signed by GRIDCo or his representative and each Party shall retain a copy thereof.
- 10.9 The date of the meter reading will be extended in case of holidays or inclement weather conditions to the immediately following working day.
- 10.10 If one Party does not arrive for the meter reading within two hours after agreed time in Clause 10.7 the other Party can proceed and read the meters and such reading shall be used for billing for that month after the verification by the party who was not present at the reading.
- 10.11 The measuring equipment shall measure and record the Electrical Energy with accuracy of 0.2%. The accuracy of the measuring equipment shall be certified by a recognized independent authority, at a cost to the Seller, at six (6) month intervals. The Seller shall give the Buyer written notice of the time and date of the certifications to be performed not less than seven (7) days prior thereto. The Buyer shall have the right to participate in the certification of the measurement devices.

11.0 BILLING ERROR

- 11.1 An error in the amounts billed in any invoice submitted by the Seller shall be adjusted in the next bill, provided that such a claim has been made by the Seller or the Buyer as applicable.
- 11.2 In the event there is an error in the amounts billed in any invoice submitted by the Seller, such error shall be adjusted by the Seller within thirty (30) days of the detection thereof.
- 11.3 Any erroneous amount paid to the Seller by the Buyer as a result of a billing error shall be refunded to the Buyer within five (5) days.
- 11.4 Any amount not paid by the Buyer to the Seller as a result of a billing error, shall be invoiced by the Seller and paid by the Buyer within five (5) days.



12.0 DISPUTED BILLING

- 12.1 Not Used.
- 12.2 No later than five (5) days after payment, the Buyer shall submit in writing to the Seller its concerns of the questioned billing.
- 12.3 Not later than five (5) days after receiving the inquiry, the Seller shall submit the back-up materials necessary to support the billing.
- 12.4 If the back-up materials are not provided in a timely manner, the Buyer shall subtract the amount in dispute from the next month's billing total.
- 12.5 After receipt of the Seller's written clarification or justification of the disputed items, the Buyer shall notify the Seller of its agreement or disagreement with such clarification or justification.
- 12.6 If the Buyer disagrees therewith, the dispute shall be resolved in accordance with the terms of Clauses 22.1 and 22.2.
- 12.7 Notwithstanding the foregoing, at any time before the expiry of ninety (90) days after the date of an invoice, any Party may notify the other Party in writing that an invoice is in dispute.
- 12.8 The dispute shall be resolved in accordance with Clause 22 of this Agreement and any payment that has been ordered to be made pursuant to the arbitration shall be paid within thirty (30) days after the Parties have been notified in writing of the same.

13.0 ADJUSTMENT OF MEASUREMENT DEVICES

- 13.1 In the event it is determined that the reading from any measuring device has been inaccurate, the Seller, GRIDCo or the Buyer as is necessary, shall correct the inaccuracy and adjust the readings of the affected devices and the appropriate billing corrections shall be reflected in the next regular monthly invoice delivered hereunder.
- 13.2 If for any reason any of the meters become unserviceable, the Electrical Energy consumed shall be estimated on the basis that it is the same as for other days, preferably of the same month, on which similar load existed or the average of the consumption of the last one month during which the meters were serviceable.
- 13.3 If, as a consequence of the certification required in Section 11.11, it is determined that the measuring equipment is measuring or recording the Electrical Energy without the accuracy of 0.2%, then the inaccurate equipment shall be so corrected, not excluding replacement, so as to measure and record the Electrical Energy with accuracy as to closest to zero (0) as possible.

14.0 UNDERTAKINGS AND WARRANTIES OF THE PARTIES

14.1 The Seller Undertakes to:

- 14.1.1 Be responsible for all the technical, logistical, environmental, commercial and any other matter whatsoever relevant to the provision of the services required under this Agreement.

- 14.1.2 Maintain supply within the limits in accordance with the National Electricity Grid Code, Republic of Ghana, October, 2009 and any amendment thereto.
- 14.1.3 Deliver, at the Point of Delivery, alternating current (AC) three (3) phase Power up to the required Connected Capacity, having frequency of fifty (50) Hertz and at the agreed nominal voltage of 161 kV. The frequency shall be subject to normal variations of three percent (+/-3%), and the voltage shall be subject to normal variations of five percent (+/- 5%). Variations outside the ranges specified herein are permitted provided any such variations do not have durations longer than five (5) minutes at a time. If a Regulatory Agency issues regulations with respect to these matters, the Seller shall comply with such regulations.
- 14.1.4 Provide voltage and frequency control equipment to ensure smooth interconnection with the National Electricity Grid Code, Republic of Ghana, October, 2009 and any amendment thereto.
- 14.1.5 Present to the Buyer, prior to the commencement of this Agreement, the Performance Test Report made by an independent qualified engineer in accordance with the related technical standards.
- 14.1.6 Co-operate with the Buyer at all times, by all commercially reasonable means possible, to fulfil the objects of this Agreement.
- 14.1.7 Comply with the standards of performance prescribed by the Energy Commission under the Energy Commission Act 1997.
- 14.1.8 Furnish to the Buyer, prior to the commencement of this Agreement, and on or before 1st December of each subsequent year, an annual forecast that includes the following:
- (a) Annual Energy Production Program, and
 - (b) Scheduled outages for the upcoming year;
- provided, however, the Seller has no liability to the Buyer and shall be subject to no penalty in the event that the actual amount of Electrical Energy delivered to the Buyer, or the times of said delivery, differ from the amounts or times shown in Annual Energy Production Program.
- 14.1.9 Notify the Buyer one month in advance of scheduled outages, including an estimate of expected length, and as soon as possible of any unscheduled outages, including an estimate of the expected length of such unscheduled outages.
- 14.1.10 Deliver the Electrical Energy in such manner that the ratio of MW demand to the megavolt-amperes (MVA) demand (read simultaneously) is as near to unity as practicable, but not less than ninety percent (90%) or better.
- 14.1.11 To agree with the Buyer and GRIDCo on setting of protective relays in order to achieve selectivity on fault clearing and ensure that the running of its system is done in synchronism with the NITS.
- 14.1.12 Notwithstanding that the Seller's Facility is a Must Run Facility, whenever Buyer's system or the systems with which it is directly interconnected experience an emergency, or whenever it is necessary to aid in the restoration of service on the Buyer's system or on the systems with which it is directly or indirectly interconnected to, the Buyer may, at its sole discretion, curtail or interrupt the taking of all or a portion of Energy Output thereunder, provided such curtailment or interruption shall continue only as long as it is reasonably necessary under Prudent Operating Practices.



- 14.1.13 To ensure that the Harmonic content of the current due to its network and further downstream, should not exceed five percent (5%) of the magnitude of the total current.
- 14.1.14 In order to comply with its obligations under the PPA, the Seller is hereby obliged and undertakes to install and put into commercial operation a twenty (20) MW solar electricity Facility in Gomoa Onyadze, Gomoa East Region, in the Central Region of Ghana, in accordance with the licensing requirement of the Energy Commission of Ghana.
- 14.1.15 The Seller understands that the section of transmission line required between the Facility and the Buyers distribution network shall be agreed at jointly between the Parties and detailed drawings shall be attached to this Agreement.
- 14.1.16 The Seller undertakes to ensure that the Facility comes into commercial production within a deadline of not more than two (2) years from the signing of the PPA.
- 14.1.17 The Seller shall maintain and operate the Facility under optimum conditions of operation and always working, bearing in mind at all times the particular nature of producing electricity from solar radiation. Moreover, the Seller shall bare all the costs and expenses of operation and maintenance; and to comply with all of the requirements and conditions laid down in current regulations.

14.2 The Buyer Undertakes to:

- 14.2.1 Not Used
- 14.2.2 Maintain consumption within the contracted quantity in accordance with this Agreement,
- 14.2.3 At all times, to take the Electrical Energy in such manner that the current shall be taken from the three phases equally as nearly as practicable, and, in any event, the difference between any two phases shall not be greater than five percent (5%). If at any time the said difference exceeds five percent (5%), the Buyer shall so adjust its load as to comply with the requirements of this Clause.
- 14.2.4 Co-operate with the Seller at all times, by all commercially reasonable means possible to fulfil the objects of this Agreement.
- 14.2.5 Pay in full (except for amounts in dispute) immediately available funds by either electronic transfer, direct bank transfer, or cheque into the bank account designated by the Seller, the Seller's electricity bills and to make such payment within the time stipulated in this Agreement.
- 14.2.6 Use the power in such a manner that the ratio of MW demand (read simultaneously) is as near to unity as practicable, but not less than ninety percent (90%).
- 14.2.7 To use, at all times, suitable, standard commercial apparatus and plant, and to operate and maintain the apparatus and plant so as to minimize disturbance to or fluctuation in the Seller's energy supply or system.
- 14.2.8 In its sole discretion, curtail or interrupt the taking of all or a portion of Electrical Energy Output thereunder, provided such curtailment or interruption shall continue so long as it is reasonably necessary under Prudent Operating Practices whenever the Buyer's system or the systems with which it is directly interconnected experience an emergency, or whenever it is

necessary to aid in the restoration of service on the Buyer's system or on the network with which it is directly or indirectly interconnected.

15.0 CONTINUITY OF SUPPLY

- 15.1 The Seller shall supply Electrical Energy in a continuous manner during the daylight hours of every day at the Point of Delivery, except as otherwise provided in this Agreement.
- 15.2 The Seller and the Buyer shall use their best efforts to remove or to assist in removing the cause of any interruption in the supply of energy with the minimum of delays, and, as soon as practicable, after the removal of any such cause, to resume or normalize the supply of energy under the terms of this Agreement.
- 15.3 The Seller shall have the right at all times to discontinue the supply of energy to the Buyer at the Point of Delivery for the purpose of safe-guarding life or property, or for the purpose of operation of the interconnection between the Seller's facility and the Buyer's facility. All such interruptions shall be of a minimum duration and, when possible, in coordination with the Buyer, or if the coordination is not possible, after a notice has been given to the Buyer with the utmost urgency.
- 15.4 In the event of any interruption or restriction to the Seller's supply of energy, the Buyer may, with notice to the Seller, pursue alternative arrangement with third parties to meet the shortfall in supply of Annual Energy by the Seller.
- 15.5 When the Seller confirms that the interruption is removed or rectified, the Buyer shall, upon reasonable notice to the Seller, resume the acceptance of the energy.

16.0 SELLER OPTION FOR INCREASED CAPACITY

- 16.1 The Seller will have the option to increase the size of the Connected Capacity in three increments, first from 20MW to 40MW, then from 40MW to 60MW, and then from 60MW to 80MW. The plant and equipment required to undertake each Seller Option will be referred to as the "Additional Plant".
- 16.2 Each Seller Option may be exercised by the Seller at any time up to the 20th anniversary of the Commercial Operation Date by providing notice in writing to the Buyer (the "Seller Option Notice"). Each Seller Option Notice shall include the following information:
- the name of the EPC Contractor;
 - [a draft of the EPC Contract;]
 - the estimated time for construction of the Additional Plant together with the date of anticipated Commissioning Tests and proposed Commercial Operation Date for the Additional Plant; and
 - [other].
- 16.3 Upon receipt of a Seller Option Notice, the Buyer shall review the draft EPC Contract for the Additional Plant.



16.4 The Seller shall carry out the construction of the Additional Plant and the Buyer shall cooperate with the Seller so as to enable the Seller to Commission the Additional Plant.

16.5 Upon achieving the Commercial Operation Date for the Additional Plant and until the expiry or earlier termination of this Agreement, the Seller shall make available to the Buyer, and the Buyer shall purchase from the Seller, all Energy delivered by the Seller from the Additional Plant to the Delivery Point.

16.6 The tariff payable in respect of the Energy delivered by the Seller from the Additional Plant shall be the same tariff and price as the Buyer is then paying for Energy from the rest of the Facility as set out in Schedule 1 (*DETERMINATION OF RATES*).

16.7 Prior to the date which is [one] month before the anticipated Commercial Operation Date set out in the Seller Option Notice, the Buyer shall maintain the monetary value of the existing Bank Guarantee .

16.8 On the [Commercial Operation Date] of the Additional Plant, all of the provisions of this Agreement shall apply *mutatis mutandis* in respect of such Additional Plant.

17.0 FORCE MAJEURE

17.1 Neither Party to this Agreement shall be liable for the consequences of any failure to perform or default in performing its obligation under this Agreement, or any of those obligations, if that failure is caused by Force Majeure.

17.2 Where there has been any such failure, the said failure shall not be considered as non-compliance with any term or condition of this Agreement, and all the obligations and terms which, because of such failure, could not be fulfilled shall be deemed to have been suspended while the Force Majeure continues.

17.3 For the purposes of this Agreement, a failure shall be regarded as caused by Force Majeure only if the failing Party proves that:

- (a) the failure is caused by Force Majeure as defined in Clause 17.7;
- (b) such circumstance is not within the reasonable control of the Party affected; or
- (c) such circumstance, despite the exercise of reasonable diligence, cannot be prevented, avoided or removed by such Party; or
- (d) such event substantially adversely affects (in cost and/or time) the ability of the affected Party to perform its obligations under this Agreement; or
- (e) such event is not the direct or indirect result of failure of such Party to perform any of its obligations under any of this Agreement; and
- (f) the affected Party has given the other Party notice describing such event, the effect thereof and the actions being taken in order to comply with this Clause.

17.4 Only such loss, damage or injury as could not have been avoided by the taking of necessary precautions and due care can be regarded as the consequence of any failure caused by Force Majeure.

17.5 Each Party shall give notice to the other Party as soon as may be feasible of any Force Majeure causing any failure to make Electrical Energy available at the capacity defined at each point of



delivery, and in addition shall give notice to the other Party of any defect, trouble or accident which may be expected to cause any such failure.

17.6 Either Party who fails because of Force Majeure, to perform its obligations hereunder, shall, upon the cessation of Force Majeure, take all responsible steps within its power, to make good and resume with the least possible delay, compliance with the obligations under this Agreement.

17.7 For the purposes of this Agreement "Force Majeure" means:

- a) an event which is beyond the reasonable control of a Party, and which makes or could make the obligations of the Party impossible, or so impractical as reasonably to be considered commercially reasonable in the circumstances, and includes, but is not limited to war (whether declared or not, including existing wars); or
- b) revolution, riots, invasion, insurrection, civil commotion, mob violence, sabotage, blockade, military or usurped power, lightning, serious damage or destruction by the elements, acts of terrorism, fire, storm, wind, precaution taken in anticipation of major disaster, or
- c) an events outside the control of the Party, drought, flood, epidemic, earthquake, any other acts of God, lockouts, boycotts, or strikes which adversely affects the operation of the Party's facilities or other facilities upon which such operation is dependent, or
- d) except with respect to payment default, any decision act or failure to act or application of any government authority or institution or any other event to the extent it is within the reasonable control of any government authority or institutions, which prevents, affects, impedes or delays the fulfilment of the contractual obligations of the Parties.

17.8 Events or circumstances which may constitute Force Majeure shall not include:

- (a) lack of funds due to any commercial, economic or financial reason such as but not limited a Party's inability to make a profit or achieve a satisfactory rate of return due to the provisions of this Agreement or changes in Market conditions (although the inability to use available funds, due to any reason set out in the Sub-clause 17.7 shall be regarded as Force Majeure); or
- (b) late delivery of machinery or other materials or a delay in the performance of any contractor or supplier (except where such late delivery or delay is itself attributable to a Force Majeure event); or
- (c) normal wear and tear or random flaws in materials and equipment or breakdown in equipment; or
- (d) hazards, including but not limited to lightning or the growth of trees which can be reasonably anticipated in normal utility operations and planned for as part of Prudent Operating Practice; and
- (e) any event which is,
 - (i) caused by the gross negligence or wilful misconduct of a Party or such Party's agents or employees, or
 - (ii) any event which a diligent Party could reasonably have been expected to take into account or avoid or overcome in the carrying out of its obligations.



18.0 LIABILITY AND INDEMNITY

- 18.1 Subject to failure to supply Electrical Energy due to limitations established under Clause 17 and or maintenance requirements, the Seller shall sell and deliver all the Electrical Energy produced to the Buyer in accordance with the terms of this Agreement.
- 18.2 Not used
- 18.3 The process of cost gathering with reference to Clause 9 shall be made transparent to the Buyer by the Seller.
- 18.4 Subject to the provisions of this Agreement specified hereunder, to the maximum extent permitted by law, each Party shall defend, indemnify and hold harmless the other Party and affiliated companies, and those with whom it might be associated in a joint venture, and other directors, employees and agents of any of the foregoing, from and against any loss, damage, claim, suit, fine, liability, other cost of litigation and judgment thereon, arising out of personal injury, death or disease, including but not limited to, employees of those entities mentioned above and their respective subsidiaries or subcontractors, or from pollution resulting wherefrom, incidental or in connection with the operation or performance of this Agreement, except to the extent that the injury, disease, death or damage is caused by the negligence and/or omission of the entity otherwise indemnified.
- 18.5 The other Party shall have the right, but not the duty, to participate in the defence of any such claim or suit.
- 18.6 Any party shall, as soon as practicable after receiving notice of any suit brought against it, deliver to the other party, full particulars within its knowledge thereof and shall render all reasonable assistance requested by any party in the defence of such suit. The obligations, indemnities and liabilities assumed by the Parties hereunder shall not be limited by any limits on insurance contained within this Agreement.

19.0 DEFAULTS

19.1 Defaults by Seller

- 19.1.1 If the Seller fails to supply an adequate amount of Electrical Energy to the Buyer to the extent that over a period of continuous 30 days, the aggregate electrical energy supplied to the Buyer is less than 50% of the amount per the Annual Energy Production Program, or the annually supplied Electrical Energy is less than 50% of the amount per the Annual Energy Production Program, the Seller shall be deemed to have defaulted on its obligations under this Agreement.

19.2 Defaults by the Buyer

- 19.2.1 If the Buyer fails to pay for the Electrical Energy purchased under this Agreement within the time stipulated in Clause 8.5, and this failure is not rectified within 30 days, the Buyer shall be deemed to have defaulted on its obligation under this Agreement.

19.3 Ratification of Breaches

- 19.3.1 Once a breach has occurred, the non-defaulting Party has the right to request in writing that the other Party remedies the default. After receipt of the notice of default, the defaulting Party shall take immediate measures to remedy the default.

- 19.3.2 If either Party defaults, the other Party has the right to request for compensation for the losses incurred during the period of default, including the loss of expected profit.

20.0 TERMINATION

20.1 Termination upon Default

- 20.1.1 The Agreement may not be terminated at the request of the Buyer. In the event the Seller defaults on a contractual obligation and within thirty (30) days after receipt of such written notice from the Buyer specifying the default, does not cure the default, the Seller shall inform the Buyer of the corresponding program of activities to cure the default. In the event the Buyer is not in agreement with the said cure, the Seller shall hire the services of an independent expert, to be approved by the Buyer, to recommend the work program required to cure the default. If the Seller is unable to cure the default after sixty (60) days, the Buyer will have the right to select a new expert and prepare a work program that is satisfactory to the Buyer. The Seller shall bear the costs of any work program deemed necessary to cure the default.

- 20.1.2 The Agreement may be terminated at the request of the Seller in the event the Buyer fails to fulfil its obligation of payment, without justified cause or when the Buyer defaults on a contractual obligation hereunder after receipt of written notice from the Seller specifying the default. The Buyer will have thirty (30) days to take the necessary action and shall notify the Seller of the corresponding program to remedy the default. Upon termination, the Seller has the right to remove all installed equipment and other assets on the property at the expense of the Buyer. In the event of termination for non-payments of bills, the Seller may utilise a payment guarantee to partially or fully defray its costs.

- 20.1.3 Termination of this Agreement shall not relieve a defaulting Party from any liability that has accrued prior to the effective date of termination and shall not relieve the Buyer of its obligation to pay for Electrical Energy already supplied.

- 20.1.4 Either Party shall have the right of termination in the event the other Party goes into liquidation/ bankruptcy.

20.2 The Termination upon Other Grounds

- 20.2.1 This Agreement will continue on a year to year basis following the expiration of the Term provided that either Party shall have the right to terminate this Agreement effective after the expiration of the Term upon giving the other Party two (2) years written notice.

- 20.2.2 Either Party shall have the right to terminate this Agreement upon the occurrence of the following:

- (a) the other Party applies or is applied for bankruptcy or liquidation;
- (b) a breach by the other Party of a material obligation under this Agreement that is not cured within thirty (30) days following written notice of such breach; or
- (c) at the request of one of the Parties and accepted by the other Party, for reason of Force Majeure.
- (d) mutual agreement of the Parties

- 20.2.3 Upon expiration or termination of this PPA the facility shall be owned and operated by the Seller with the Electrical Energy produced by the facility to be available for sale by the Seller.



21.0 WAIVERS

- 21.1 Any waiver by the Seller or Buyer or failure by the Seller or the Buyer to exercise its rights or enforce its remedies shall be limited to the particular instance and shall not be deemed to be a waiver of any other right or remedy, or extend to any other matter under this Agreement or in any other way affect the validity of this Agreement.

22.0 SETTLEMENT OF DISPUTES

22.1 Amicable Disputes:

- 22.1.1 If any dispute shall arise between the Parties hereto in connection with any matter arising out of this Agreement, the Parties shall use their best efforts to resolve the dispute.
- 22.1.2 If the dispute is not settled within the first thirty (30) days after one Party declares in writing to the other the existence of the dispute, any of the Parties may declare in writing its intention to solve the dispute by means of arbitration.

22.2 Arbitration:

- 22.2.1 Dispute resolution shall be by arbitration, in accordance with the London Court of International Arbitration and the Laws of Ghana.
- 22.2.2 If the Parties fail to resolve a dispute, either Party may, with notice to the other, submit the dispute to arbitration by three (3) arbitrators, unless the Parties otherwise agree. In composing the arbitral panel, each Party shall nominate one (1) arbitrator, and the two (2) arbitrators so appointed, shall together appoint a third arbitrator who shall be the umpire.
- 22.2.3 Place of arbitration shall be London, England. The arbitration shall be conducted in the English language and each Party will be responsible for the translation into English as required of any documents placed in evidence in the arbitration.

23.0 TRANSFER AND ASSIGNMENT

- 23.1 This Agreement shall not be assigned or subcontracted in any way without the written approval of both parties.
- 23.2 Unless the consent to transfer would conflict with Ghana law, the Buyer agrees not to withhold its consent to transfer for an unreasonable period of time.
- 23.3 The Seller's receivable, which will arise with this Agreement, may be assigned and pledged to a joint venture partner, as the guarantee for its financial agreements made by the Seller in connection with the facilities.



24.0 AMENDMENT

- 24.1 The terms of this Agreement shall be subject to review at the request of either Party to take into account any profound changes in circumstances that a Party believes to have occurred. If the Parties agree that because of such profound changes in circumstances any of the provisions hereof impose an inequity or undue burden upon the other Party, such that the balance of benefits and equities reasonably contemplated by the Parties when they entered into this Agreement have been materially altered to the disadvantage of one Party, the Parties may in good faith endeavour to amend or supplement this Agreement.

The Parties agree that amendments to the Agreement may be required to satisfy requirements of the Seller's lender/investor. In the event amendments are required, the Parties hereby agree to execute a separate amendment to which will become a part of this Agreement and fully enforceable under the terms and conditions of this Agreement.

25.0 CONFIDENTIAL INFORMATION

- 25.1 Any information marked confidential that is disclosed by either Party to the other relating in any way to the subject matter of this Agreement shall be kept confidential by the receiving Party (or its agents, officers, employees and others acting on its behalf) during the term of the Agreement and for five (5) years from the termination of this Agreement.

- 25.2 However, a Party may make disclosures:

- (a) as required by law and/or regulation;
- (b) at the request of a governmental authority;
- (c) at the request of a lender in connection with providing a loan to the Seller or the Buyer as the case may be; and
- (d) at the request of a potential Buyer of an ownership interest in either Party or of all or substantially all of the assets of a party, subject to the recipient's agreeing to maintain confidentiality; and
- (e) upon advance written approval of either Party for purposes of national publicity or marketing of the project to other potential solar customers.

- 25.3 However, a Party may disclose any information that:

- (a) is in the public domain other than by a breach hereof;
- (b) prior to the effective date of this Agreement, was already known by the receiving Party; or
- (c) became known to the receiving Party through a source lawfully in possession of the information and owing no obligation of confidentiality under this Agreement.

- 25.4 The Seller and the Buyer acknowledge and agree that the disclosure of confidential information may cause serious and irreparable harm to the disclosing Party which could not adequately be compensated for in damages and in the event of a breach, or an anticipated breach, by a Party of



any of such provisions such Party hereby consents to an injunction being issued against it restraining it from such anticipated breach or any further breach of such provision (as applicable), but such action shall not be construed as limiting the remedies available to the other party in the event of such breach or anticipated breach.

26.0 SEVERABILITY

- 26.1 If any provision of this Agreement is declared or found to be illegal, unenforceable or void, the Parties shall negotiate in good faith to agree upon a substitute provision that is legal and enforceable and is as nearly as possible consistent with the intentions underlying the original provision if the remainder of this Agreement is not materially affected by such declaration to the extent permitted by law.

27.0 RELATIONSHIP OF THE PARTIES

- 27.1 It is expressly understood that the Buyer, on the one hand and the Seller on the other hand, intend by this Agreement to establish the relationship of independent contractors, and do not intend to undertake the relationship of principal and agent or to create a joint venture or partnership between them or their respective successors in interests. Neither the Buyer, on the one hand, nor the Seller, on the other hand, shall have any authority to create or assume, in the name or on behalf of the other Party any obligation expressed or implied, nor to act or purport to act as the agent or the legally empowered representative of the other Party hereto for any purpose whatsoever

28.0 NOTICES

All notice hereunder shall be deemed as given when addressed and delivered by hand or dispatched by registered mail or facsimile in the case of the Seller, to:

The Managing Director
BXC COMPANY (GHANA) LIMITED
P.O. Box KN5273
KANESHIE
ACCRA



And, in the case of the Buyer, to:

The Managing Director
Electricity Company of Ghana Limited
Electro Volta House
P.O. Box GP 521
Accra, Ghana

Telephone: 233-0302-6786762 or 233-0302-676747
Fax: 233-0302-666262



29.0 GOVERNING LAW

The governing law of this Agreement shall be the laws of Ghana.

30.0 ENVIRONMENTAL ATTRIBUTES

30.1 The Seller, or Seller's successors or assignee, shall retain ownership of all right, title and interest in any and all Environmental Attributes, including any SRECs or RECs generated therefrom. The Buyer shall comply with the reasonable demands of Seller, if any, to ensure that Seller's interest in the Environmental Attributes has priority over any Parties in accordance with the Applicable Laws.

30.2 The Seller and Buyer mutually agree to work together to maximize the value of the environmental attributes of the project and to the extent any value is derived from the sale of any Renewable Energy Certificates (RECs) or Solar Renewable Energy Certificates (SRECs), share in the proceeds. The Seller agrees to allow the Buyer the right to receive 50% of any proceeds recovered from any sale.

31.0 INSURANCE

31.1 The Seller shall provide protection for the Buyer for damage or injury including death to the Buyer's personnel or property and the Buyer's customers or property only if such damage, injury or death to the Buyer's property or personnel or customers, as the case may be, is the direct result or consequence of the Seller's negligence or default in the discharge of its obligations under this Agreement.

32.0 ENVIRONMENT PROTECTION REQUIREMENTS

32.1 The Seller shall provide to the Buyer written assurances on its policies, procedures and conduct regarding Environmental matters, in compliance with appropriate laws.

33.0 SAFETY OPERATIONAL PROCEDURES

33.1 The detailed Operational Procedures for switching and protection settlement shall be developed by the Parties and be attached to this Agreement.

33.2 The Parties agree to comply with the provisions of such Operational Procedures in managing the network under this Agreement.

34.0 DOCUMENTATION

34.1 At the request of one of The Parties, the other Party must hand over the information requested, provided this information concerns the PPA.

IN WITNESS WHEREOF the Parties have entered into this Agreement the date first above written.

**SIGNED, SEALED AND DELIVERED on behalf of
BXC COMPANY (GHANA) LIMITED**

By: The Managing Director, Mr. Guangwen Wu

KN5273

GRA

**SIGNED, SEALED AND DELIVERED on behalf of
ELECTRICITY COMPANY OF GHANA LIMITED**

By: Rev. Ing. William Hutton-Mensah



SCHEDULE 1: DETERMINATION OF RATES

- 1) The Seller shall be paid a flat rate of US Cents 20.1372 per kWh as the FIT approved by the PURC.
- 2) After the end of the first ten years of operation, the price shall be negotiated with the Buyer within the range to be established by PURC. However, all negotiation relating to the price after the expiring of the initial Ten (10) years period shall not be lower than the price per kWh for the initial Ten (10) years. The negotiated price after the initial Ten (10) years shall be for the remaining term of ten (10) years of the PPA.



SCHEDULE 2: METERING AND DETERMINATION OF METERED QUANTITIES

1) METERING DEVICES

For the purpose of measuring the delivered kWh's metering devices (the "Metering Devices"); measurement circuits at the Seller's switchyard shall be arranged in accordance with the meter connection arrangement specified in Schedule 3 and shall be installed by the Seller at its own cost. The meter connection arrangement specified in Schedule 3 shall be in line with industry standards.

The Metering Devices shall consist of two groups, namely a main group of Metering Devices and a stand-by group of metering devices. Measuring transformers at the feeding circuits of these two groups shall be separate. Each group shall contain one active and one reactive Metering Device.

Measuring transformer at the feeding circuits of the Metering Devices, installed for measuring the internal need of the facilities, will be selected in accordance with the amount of consumption of the auxiliaries. This will be specified in Schedule 3 separately. The active Energy consumed during compensator operation shall be determined according to the calculation and/or measurement method to be specified in Schedule 3.

The amount of Energy recorded and consumed by the Metering Devices in powerhouse switchyard will be deducted from the amount of Energy to be sold to Buyer, as per the conditions of Schedule 3.

The location connections and (if necessary) direction of the Metering Device groups shall be as set out in a separate schedule and approved by the Parties.

All the Metering Devices shall be equipped with a mechanism preventing its reverse rotation (claw meters) and shall be sealed with a special seal agreed by the Parties.

Measuring transformer feeding the measurement circuits and active Metering Devices shall be of maximum 0.5 class. Reactive Metering Devices shall be chosen of any class from 0.5 to 3.0.

The Metering Devices and measurement circuits at any substations shall also conform to international specifications. The ETU shall be responsible for the installation, maintenance and repair of the Metering Devices and measurement circuits at its own substation and shall bear all costs relating thereto. The Metering Devices and measurement circuits at the substations shall be inspected and tested in manner similar to the provisions herein and the ETU shall bear the cost thereof.

2) SEALING THE MEASUREMENT SYSTEM

The measurement system consists of Metering Devices, current and voltage transformers and secondary circuits feeding the Metering Devices, and after these circuits are protected against external interference, and the circuits and the protection thereof are approved by the Parties, the necessary points shall be sealed. These seals shall only be broken by the Buyer's personnel in the presence of representative of the Seller during inspection, testing and adjustment of Metering Devices.

3) READING OF METERING DEVICES

The ETU or his representative shall read the meter in the presence of the Buyer and Seller or their representative at 12:00 on the last Day of each successive month (or such other Day as the Parties may agree) for determination of the Electrical Energy received by the Buyer and shall notify the Buyer in writing at least 48 hours in advance of the time of reading the meter.

The sum of Energy measured in all months of the year should be the same as the Energy taken at the end of the year. If there were a difference the affected part would be compensated by the same amount within a Month.

4) INSPECTION AND TESTING – Testing of metering devices shall be in accordance with the pre-commissioning testing routine designated in the EPC build contract and prior to the final commissioning system testing for issuance of system certificate of completion.

4.1) REGULAR TESTING

One month prior to the Unit Commercial Operation Date of first unit and at intervals of not less than six months, but not more than eighteen months thereafter and provided that at least two weeks prior the necessary notice is issued by the Buyer to the Seller, the accuracy and calibration of the Metering Devices shall be tested by representatives of both Parties in accordance with the testing procedures enclosed herein, the cost of which shall be borne equally by the Parties. The said procedure shall be in line with industry standards applied in other power generating plants. The Metering Devices at the substation shall also be tested in accordance with the procedure set out above, and the cost shall be borne by the Buyer.

In the event that any component of the Seller's Metering Devices is found to be beyond the acceptable sensitivity limits for that class of Metering Device set herein, or functionally defective, the Seller shall have its Metering Devices or components repaired and recalibrated and such Metering Devices shall be retested in the presence of the representatives of both Parties after it is mounted in its place.

4.2) REQUESTED TESTING

If at times other than the test dates either party claims that any Metering Devices are functioning inaccurately after the inspection, the contesting party by written notification may request that such Metering Devices should be tested in the presence of the representatives of both Parties. In this case, such Metering Devices shall be tested in compliance with the testing procedure specified herein at a pre-notified and mutually agreed date or seven days after the date of notification. The said testing procedure shall be in line with international industry standards applied in power generating plants. If any fault is detected beyond the accuracy limits the parties shall utilize the standby Metering Devices, and if any fault is detected also on the stand-by Metering Devices beyond the acceptable tolerances for that class of Metering Devices, the parties shall utilize the Metering Devices at the substation, where the measurement shall be adjusted for line losses between the facilities and the substation. The kWh's delivered not measured correctly shall be adjusted according to the Agreement, and the adjustment shall be established by a memorandum which shall be signed by the Parties to evidence such adjustment.

If any Party claims that the measurement system is faulty as stated in the Agreement, but upon testing such Metering Devices are found to be accurate, the testing expenses shall be borne by the contesting party, but otherwise the test expenses shall be borne equally by the Parties.

4.3) TESTING OF METERS

Meters shall be tested according to the Buyer's meter testing procedures.

5) LOCATION AND CONNECTIONS OF METERING EQUIPMENT

The energy meters and timer devices that measure the operation period of units during which time they operate as compensators, shall be installed in a suitable section of the power plant building.



6) ENERGY DELIVERY POINT

Delivery point shall be a point as shown on the drawing in Schedule 5.

7) ENERGY SUPPLY POINT

Supply point shall be the point as shown in the attached in Schedule 5.

8) PRE-COMMISSIONING, INVERTERS & SCADA

Contractor shall arrange for mechanical and electrical tests on the Inverter and related SCADA equipment once the corresponding electrical circuit testing, see Electrical System Pre-commissioning, has been completed. Testing shall include:

- Verification by Inverter Manufacturer representative that unit is ready to be placed into service
- Software and Parameter updates by Inverter Manufacturer representative to ensure the latest firmware is installed and units are configured to the optimal run settings given the selected Solar Module and its project specific electrical configuration.
- Verification that Inverter is properly communicating with SCADA components
- Verification that met sensors are all calibrated and displaying true values on SCADA.

Station power, generators, or other means of temporary power may be used to energize Inverters and SCADA components prior to utility back feed.

Inverter/SCADA Pre-Commissioning shall be completed no later than ten (10) days prior to scheduled system commissioning date.

SCHEDULE 3: METERED ELECTRICAL ENERGY COMPUTATION

1) METER CONNECTION ARRANGEMENT

Metering shall be performed with the main and standby meters installed at the Supply Point, as shown in the design drawings. Incoming and outgoing energy shall be metered at the line and transformer feeders.

Outgoing energy meter and incoming energy meter shall be represented by (HG) and (HD), respectively.

If new lines are added in future to this power plant then, new meters shall be installed according to the same principle;

2) METERING OF THE ACTIVE ENERGY CONSUMED DURING COMPENSATORY OPERATION

The amount of active energy consumed by the owner operations will be metered separately and known as "Compensatory Meter" (CM) during operation and the CM meter is to be read semi-annually, the data collected is known as the owners compensator usage. This amount of usage can be allowed (based on Operators Load Justification form) and reconciled (Subtracted against or credited) upon the allowed energy through the regular billing to the power buyer.

During trial run operations, the Seller shall procure all the necessary devices requested by the Joint Operation Committee for making the measurements. The active power consumed during the operation of the Unit as a compensator, and the consumption of the necessary auxiliary equipment still at the same time, shall be included in the calculation made for finding the average consumption during operation as a compensator.

3) THE BASIS OF ENERGY SALE

The energy to be invoiced shall be found by reading the "Supply Meter" (SP) at the outgoing AC side of the inverters as described in Schedule 3 line 7, and schedule 5 drawings. The amount of compensator consumption will be subtracted semiannually from the amount of billable supplied energy.

The amount of energy sold that shall be invoiced as E_i and stated as kWh or MWh.

Energy to be invoiced (E_i) = (SP- CM)



SCHEDULE 4: BANK GUARANTEE VIA SWIFT MT760

From:
Address:
Type of Document:
Number Document:
Issue Bank:
Currency:
Amount:
Beneficiary:
Issue Date:
Maturity Date:
Expiration Date:
Origin of Funds ISIN Code:
Nominal Currency:
Common Code:
Operation Common Code:
Operation CUSIP Number:
Validity General Code:
Transaction Reference Number:
Block Date:
Block Time:

As per instructions of our client, CLIENT NAME, with account number XXXXXXXXXXXXXXXX, we BANK NAME AND ADDRESS, hereby confirm with full bank responsibility that on DATE, we issued a Bank Guarantee in favor of BENEFICIARY NAME, with cash backed, good, clean, clear and of non-criminal origin funds, free of any liens and encumbrances. We also confirm with full banking responsibility that we acknowledge and agree that the above referenced bank instrument has been reserved and is blocked for a period of one year and one day from this date in favor of BENEFICIARY NAME, the final beneficiary. This bank instrument can be confirmed on bank to bank basis.

We the undersigned, ISSUING BANK NAME AND ADDRESS, hereby open our irrevocable, transferable, divisible, assignable, cash backed and confirmed Bank Guarantee in favor of BENEFICIARY NAME for the amount of US\$XXXXXXXXXXXX (XXXXXXXXXX). We, ISSUING BANK NAME AND ADDRESS, irrevocably and unconditionally without protest or notification promise to pay against this Bank Guarantee Number XXXXXXXX in favor of BENEFICIARY NAME or assigns at maturity date the sum of US\$XXXXXXXXXXXX (XXXXXXXXXX) in the lawful currency of COUNTRY upon presentation of this Bank Guarantee at our counters at BANK ADDRESS or at first written demand via swift wire system on maturity date, but not later than fifteen days after the maturity date. Such payment shall be made without set-off and clear of any deductions, charges, fees or withholdings of any nature, now or hereafter imposed, levied, collected, withheld or assessed by the government of the Issuing Bank or any political subdivision or authority thereof or herein. This Guarantee is transferable, assignable and divisible without presentation to us or payment of further fees. This Bank Guarantee is an operative instrument which is callable at the issuing bank and is subject to the Uniform Customs practice of documentary credit (1983 Revision) and shall be governed and construed by the laws of Hong Kong, European community and USA in accordance with ICC Publication 500/600 latest version, Paris France.

Bank Officer 1:
Authorized Signatory
Name:
Title:
Code:

Bank Officer 2:
Authorized Signatory
Name:
Title:
Code:



BANK STAMP / SEAL

Reviewed and accepted by

PRINCIPAL SIGNATURE

NAME:

PHYSICAL ADDRESS:



SCHEDULE 5: DIAGRAM OF SUPPLY AND DELIVERY POINTS

