Madhya Pradesh Paschim KshetraVidyut Vitaran Co. Ltd., Indore
(A WHOLLY OWNED GOVT. OF M.P.UNDERTAKING)

RFP Specification No.CMD/SE(BD)/Distribution of Elect./2011/02/Ujjain /12308

Dated 30th June 2011

DISTRIBUTION FRANCHISEE AGREEMENT

For

Distribution and supply of electricity in Ujjain District

Between

Madhya Pradesh Paschim Kshetra Vidyut Vitaran Co. Ltd.
(A WHOLLY OWNED GOVT. OF M.P.UNDERTAKING)
GPH, Polo Ground, Indore, 452003

and

M/s. …….

Date ……

This Distribution Franchisee Agreement (hereinafter referred as "DFA") is made at ---------- on this ---------- day of ---------- 2011

BY AND BETWEEN

Madhya Pradesh Paschim Kshetra Vidyut Vitaran Co. Ltd. Indore, a company incorporated under the Companies Act 1956 and a Licensee under Electricity Act 2003, having its registered Office at Office of The CMD(WZ) M.P.P.K.V.V. Co. Ltd., Polo Ground Indore 452003(hereinafter referred to as "Distribution Licensee or Licensee" which expression shall, unless repugnant to the context, include its successors and permitted assigns), of the **First Part**;

AND

……..……. [*Insert the name of SPV incorporated by the Selected Bidder*] a company registered under the Companies Act, 1956 with its registered office at ……..... [*Insert registered office address of the SPV*] hereinafter referred to as the "Distribution Franchisee or Franchisee" which expression shall, unless repugnant to the context, include its successors and permitted assigns), of the **Second Part**.

The expressions "Distribution Licensee" or "Licensee" and the "Distribution Franchisee" or "Franchisee" shall hereinafter collectively be called as "Parties" and individually as "Party".

WHEREAS:

A. Madhya Pradesh Paschim Kshetra Vidyut Vitaran Co. Ltd., Indore is the Distribution Licensee in the Ujjain District having been vested with the functions and undertakings of electricity Distribution and retail supply in the said area on reorganization of Madhya Pradesh State Electricity Board as per Sections 131 and 133 of the Electricity Act, 2003 (Central Act) read with the applicable provisions of the Madhya Pradesh Vidyut Sudhar Adhiniyam 2000 (State Act) and as per the Transfer Scheme notified by the Government of Madhya Pradesh by Order No.5555/RS/4/13/2001 Bhopal, dated 1st July, 2002;

B. Pursuant to the above Madhya Pradesh Paschim Kshetra Vidyut Vitaran Co. Ltd., Indore has been conducting the business of Distribution and retail supply of electricity in the Franchisee Area;

C. In terms of the provisions of the Electricity Act, 2003, Madhya Pradesh Paschim Kshetra Vidyut Vitaran Co. Ltd., Indore is entitled to engage the services of Franchisee for undertaking Distribution and retail supply of electricity in its area of supply.

D. Madhya Pradesh Paschim Kshetra Vidyut Vitaran Co. Ltd., Indore is desirous of appointing a Distribution Franchisee for the Franchisee Area with the objective of improving the operational efficiency and quality of service to be provided to its Consumers, by bringing in the required expertise and focus through public-private participation, in the Distribution and retail supply of electricity;

E. Madhya Pradesh Paschim Kshetra Vidyut Vitaran Co. Ltd. Indore has initiated a competitive bid process for selection of the Franchisee for Ujjain District and has issued RFP No. CMD/SE(BD)/Distribution of Elect./2011/02/Ujjain/12308 Dated 09th June 2011.

F. Pursuant to the above competitive bid process M/s…….[*Insert name of the Selected Bidder*] has been identified as a Selected Bidder to whom a Letter of Award No……dated

……..[*Insert No. and date of Letter of Award*] was issued and who has accepted such Letter of Award unconditionally.

G. The Selected Bidder in accordance with the Letter of Award has submitted Performance Security in the form of Letter of Credit for an amount of Rs. …… [*Insert the amount of Performance Security*] only issued by ……. [*Name of Bank and Address of Bank*].

H. The Selected Bidder has incorporated a Special Purpose Vehicle by the name M/s…… [*Insert the name of SPV incorporated by the Selected Bidder*] and have requested the Madhya Pradesh Paschim Kshetra Vidyut Vitaran Co. Ltd. Indore to enter into this Distribution Franchisee Agreement with the said SPV.

NOW THEREFORE, in consideration of the premises and the mutual agreements, covenants, conditions herein contained, the Parties hereto hereby agree as follows:

ARTICLE 1.INTERPRETATION AND DEFINITION

1.1. Interpretation

Save where the contrary is indicated, any reference in this Agreement to**:**

(a) a "person" shall be construed so as to include any individual, firm, company, trust, unincorporated association of persons, government, state or agency of a state or any joint venture, association or partnership (whether or not having separate legal personality);

(b) "including" and "include" shall be construed to mean "including without limitation" and "include without limitation'' respectively;

(c) "INR" or "Indian Rupees" shall be the lawful currency from time to time, of the Republic of India;

(d) Words importing the singular shall include the plural and vice versa;

(e) "day" shall mean a reference to a calendar day;

(f) "month" shall mean a reference to a calendar month;

(g) "year" shall mean financial year;

(h) The headings are for the purpose of identification and shall not affect the interpretation of the provisions and schedules;

(i) Any schedule to the Distribution Franchisee Agreement shall take effect as if set out in this Distribution Franchisee Agreement and references to this Distribution Franchisee Agreement shall include its schedules;

(j) any agreement, deed, instrument, license or document of any description, shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference;

(k) Recitals, Articles, Sub-articles, Clauses or Schedules in the Distribution Franchisee Agreement shall, except where the context otherwise requires, be deemed to be references to Recitals, Articles, Sub-articles, Clauses and Schedules of or to the Distribution Franchisee Agreement;

(l) any period commencing "from" a specified day or date and "till or until" a specified day or date shall include both such days and dates, unless otherwise stated;

In case of any contradictions, the provisions of the Distribution Franchisee Agreement shall override the RFP.

1.2. DEFINITIONS

The terms used in this Agreement, unless as defined below or repugnant to the context, shall have the same meaning as assigned to them by the Electricity Act, 2003 and the rules or regulations framed

there under, including those issued/framed by Appropriate Commission (as defined hereunder), as amended or re-enacted from time to time.

For the purpose of this Distribution Franchisee Agreement (including all its annexure), the following terms, phrases and their derivation shall have meanings given below, unless the context otherwise requires.

"Act" shall mean the Electricity Act, 2003;

"Affiliate" shall mean a company that either directly or indirectly

i. controls or
ii. is controlled by or
iii. is under common control with

a company and "control" means ownership by one company of at least fifty one percent (51%) of the voting rights of the other company. Any bank or financial institution shall not be considered an Affiliate;

"Agreement Period" or**" Contract Period"** or **"Term of Agreement"** shall mean the period, commencing from the Effective Date and ending on the Expiry Date of the Distribution Franchisee Agreement;

"Appropriate Commission" shall mean the CERC, or the SERC or the Joint Commission referred to in Section 83 of the Electricity Act 2003, as the case may be;

"AT&C Losses" shall mean the sum total of technical losses, commercial losses and shortage due to non - realization of total billed energy expressed in percentage and shall be computed as follows: .

$$\text{AT \& C Losses} = \frac{\{\text{Total Energy Input(MUs) less Energy Realised(MUs)}\}}{\text{Total Energy Input (MUs)}} \text{ x } 100$$

*Where, Energy Realised = Sale of energy (MUs) * Collection Efficiency*

For the purpose of this Agreement, the sale of energy or sold energy shall be the same as energy units billed to the Consumers and for calculation of AT&C Losses under this Agreement, the value of Collection Efficiency shall be restricted to 100% for any financial year or part thereof;

"Average Tariff" shall mean the tariff computed in line with the provisions of Annexure III of this Agreement;

"Base Year" shall mean the financial year 2010-11;

"Bid" shall mean the Technical Bid and the Price Bid submitted by the Bidder, in response to the RFP, in accordance with the terms and conditions of the RFP;

"Bidder" shall mean either a single company or a Consortium of companies submitting a Bid in response to the RFP for the Project. Any reference to the Bidder includes Bidding Company, Bidding Consortium/ Consortium, Member in a Bidding Consortium and Lead Member of the Bidding Consortium jointly and severally, as the context may require;

"Bidding Company" shall refer to such single company that has made a Bid in response to RFP for the Project;

"Bidding Consortium" or **"Consortium**" shall refer to a group of companies that has collectively made a Bid in response to RFP for the Project;

"Bureau of Energy Efficiency" shall refer to the body set up by the Government of India on 1st March 2002 under the provisions of the Energy Conservation Act, 2001 with the primary objective of reducing energy intensity of the Indian economy**;**

"Business Day" shall means with respect to both the Parties, a day other than Sunday and a statutory holiday, on which the banks remain open for business in the State of Madhya Pradesh;

"Check Meters" shall mean Meter(s) which shall be connected to the same core to which Main Meter is connected and shall be used for accounting and billing of electricity in case of failure of Main Meter;

"Collection Efficiency" shall mean the percentage of revenue actually realized and amount billed to Consumers, for the relevant year and shall be calculated as below:

$$\text{Collection Efficiency} = \frac{\text{Revenue realised from Consumers in Rs.}}{\text{Amount billed to Consumers in Rs.}} \text{ x } 100$$

The revenue realized from Consumers shall include the amount collected on account of Arrears;

"Complaints" shall mean any written or electronic correspondence by a Consumer expressing dissatisfaction with services or product**;**

"**Consortium Member"** or **"Member**" shall mean each company in the Bidding Consortium;

"Consumer" or "Consumers" shall mean any person who is supplied with electricity for his own use in the Franchisee Area and includes any person whose premises in the Franchisee Area are for the time being connected for the purpose of receiving electricity, persons who have applied for an electricity connection, persons whose supply is not yet connected or whose electricity supply has been disconnected. A "Low tension Consumer (LT Consumer)" / "High tension Consumer (HT Consumer)" shall mean a Consumer who has been supplied power by the Licensee at voltage as specified in Supply Code for the respective category, until and unless specified otherwise;

For the purpose of this Distribution Franchisee Agreement, the word "Consumer" does not include the consumers at voltage level higher than 33 kV.

"Distribution" shall mean the conveyance and supply of electricity by means of Distribution System;

"Distribution Assets" shall refer to the assets existing as on the Effective Date and those created by the Distribution Licensee thereafter and updated as per provision in Article 16.4 beyond the Input Points for Distribution of electricity including 33kV, 11kV and LT lines(both overhead and underground), electrical plants, 33/11kV substations, control rooms, control switch gears, Meters having design voltage of 33kV and below, service lines and other similar assets at the Consumer end and other assets created by the Distribution Licensee for Distribution of electricity in the Franchisee Area including the buildings constructed for complaint centre's, billing centre's, IT centre's, collection centers, transformer repair workshops, Division/Sub Division/Distribution Centre offices together with furniture and fixtures, IT hardware, software and communication equipments. It shall also include residential buildings presently occupied by the Distribution Licensee staff or which are

lying vacant, community halls, other offices and open land which may not be required by the Distribution Licensee after handing over of the Franchisee Area to the Franchisee;

"Distribution Asset Inventory" shall mean the inventory of Distribution Assets prepared consequent to a Joint Asset Survey and shall include any bi-monthly update thereof provided by the Distribution Franchisee or ascertained through any subsequent Joint Asset Survey, as the case may be;

"Distribution Control Centre" shall mean a control center created by the Distribution Licensee and functioning at Ujjain for the purpose of regulating the supply of electricity within the area of its supply;

"Distribution Franchisee Agreement" or **"DFA"** or **"Agreement"** shall mean this document including its recitals and Annexures;

"Distribution Franchisee Assets" shall mean the assets created by the Distribution Franchisee in the Franchisee Area for Distribution of electricity through capital investment duly approved by the Distribution Licensee or MPERC as applicable and includes the assets created by the Distribution Franchisee in replacement of Distribution Assets; the ownership of such assets shall vest with the Franchisee until Expiry Date;

"Disconnected Consumer" shall mean a Consumer whose electricity supply has been disconnected either temporarily or permanently by the Distribution Licensee or the Distribution Franchisee as per the provisions of Supply Code;

"Distribution Licensee" shall mean the Madhya Pradesh Paschim Kshetra Vidyut Vitaran Co. Ltd. Indore;

"Distribution System" shall mean system of wires and associated facilities between the Input Points and the point of connection to the installation of the Consumers owned by the Distribution Licensee;

"Due Date" shall mean the tenth (10th) day after the day the Monthly or Supplementary Invoice is received and duly acknowledged by the Distribution Franchisee and by such date the Invoice is payable by the Distribution Franchisee. If such day is not a Business Day, the immediately succeeding Business Day shall be the Due Date.

"**Effective Date**" shall mean the date intimated by the Distribution Licensee to the Distribution Franchisee to commence its operations as per the Distribution Franchisee Agreement and such operations are actually commenced by the Distribution Franchisee from such date, i.e., date of handing over of the Franchisee Area by the Distribution Licensee which shall not be later than three (3) months from date of signing of the Distribution Franchisee Agreement;

"Electricity Laws" shall mean the Electricity Act, 2003 and the rules and regulations made there under from time to time along with amendments thereto and replacements thereof and any other Law pertaining to electricity including regulations framed by the appropriate commission and also includes all directions, guidelines, orders and other requirements notified or given by the regulatory authorities such as the Central Electricity Authority, the regional and state load dispatch center(RLDC/SLDC) and the regulatory commissions including and in particular the MPERC;

"Electricity Supply Code, 2004"or **"Supply Code"** shall mean the Madhya Pradesh Electricity Supply Code, and other related Codes and Regulations issued by the MPERC for the time being in force;

"Encumbrances" shall mean any encumbrances such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations;

"Energy Conservation Act" shall mean The Energy Conservation Act 2001 as modified by the Government of India from time to time;

"Energy Audit" shall mean accounting of energy supplied to various segments of electrical system so as to carry out further analysis to determine the consumption and loss of energy therein over a specified time period;

"Engineer-in-charge" shall refer to the **Superintending Engineer (O&M)** of the Distribution Licensee for the Franchisee Area and shall be the Distribution Licensee's representative for the purposes of this Agreement;

"Expiry Date" means the fifteenth (15th) anniversary of the Effective Date or any other extended date as per provisions of this Agreement or in the case of early Termination of this Agreement, such date of early Termination. The term 'Expiry' shall be construed accordingly;

"Force Majeure" shall mean any event or circumstance or combination of events and circumstances including those stated in **Article28** that wholly or partly prevents or unavoidably delays an affected Party in the performance of its obligations under this Agreement, but only if and to the extent that such events or circumstances are not within the reasonable control, directly or indirectly, of the affected Party and could not have been avoided if the affected Party had taken reasonable care or complied with Prudent Utility Practices;

"Franchisee Area" shall mean the geographical area of Ujjain District and all rights and obligations of the Parties under this Agreement shall be construed in relation to that area;

"Franchisee Asset Register" shall mean the fixed asset register maintained by the Distribution Franchisee as per the requirements of the accounting standards to record the transactions relating to purchase, sale, transfer, disposal and depreciation on fixed assets from time-to-time during the Contract Period pertaining to the Distribution Franchisee Assets;

"Franchisee Representative" shall mean an official of the Distribution Franchisee of the rank of General Manager or above, duly authorized by the Distribution Franchisee and intimated to the Distribution Licensee from time to time for the purposes of this Agreement to represent for dealing with the Distribution Licensee;

"GoMP" is the abbreviation for Government of Madhya Pradesh;

"Government Instrumentality" shall mean the Govt. of India, Government of Madhya Pradesh and any ministry or, department or board or agency of such Governments and other regulatory or quasi-judicial authority controlled by GoI or Government of Madhya Pradesh and includes the Appropriate Commission;

"Independent Auditor" shall be a firm of Chartered Accountants registered with the Institute of Chartered Accounts of India (ICAI) appointed with the consent of both the Parties for any specific certification, verification, or audit in connection with this Agreement;

"Input Energy" or **"Energy Input"** shall refer to the energy input (kWh) in the Franchisee Area accounted for at the Input Point(s) through all the Main Meters and/or Interface Meters;

"Input Point(s)" shall mean the Meter on 33 kV side of 132/33 kV transformers at EHV/HV sub-stations and shall also include such other EHV/HV substations or feeders through which energy shall be injected to the Franchisee Area with effect from the Effective Date during the Term of Agreement;

"Input Rate" shall mean the rate in Rupees per unit (kWh) of electricity as given in **Annexure II** for each year of the Contract Period to be paid by the Franchisee for the electricity supplied by the Distribution Licensee at the Input Point(s), and shall be subject to adjustments from time to time as per provisions of the Distribution Franchisee Agreement;

"Interface Meter" shall mean a Meter used for accounting and billing of electricity, connected at the point of interconnection between electrical systems of generating company, Licensee and Consumers, directly connected to the Inter-State Transmission System or Intra-State Transmission System. For the purpose of the Distribution Franchisee Agreement, Interface Meter would be used for accounting and billing of Input Energy at the point of interconnection between the electrical systems of the Distribution Licensee and Franchisee;

"Invoice" shall mean the Monthly Invoice (MI) or the Supplementary Invoice (SI), as the case may be, raised by the Distribution Licensee in terms of the provisions of this Agreement for payment by the Distribution Franchisee;

"Joint Inspection Team" shall mean a team consisting of two representatives each from the Distribution Licensee and the Distribution Franchisee at the level of executive engineer or equivalent representing from technical and finance function;

"Law" or **"Laws"** in relation to this Agreement shall mean all laws including Electricity Laws in force in India and any statute, ordinance, rule, regulation, notification, order or code, or any interpretation of any of them by an Indian Government Instrumentality having force of law and shall include all rules, regulations, decisions and orders of the Appropriate Commission;

"**Lead Member of the Bidding Consortium**" or "**Lead Member**" shall mean a member of the Bidding Consortium, which is designated as the Leader of the Consortium by the other Members to represent them as the Bidder for this Project;

"Letter of Award" shall mean the letter issued by the Distribution Licensee to the Bidder, who has been identified as the Selected Bidder for the award of the Project to such Bidder;

"Licensee Asset Register" shall mean the fixed asset register maintained by the Distribution Licensee as per the requirements of the accounting standards to record the transactions relating to purchase, sale, transfer, disposal and depreciation on fixed assets from time-to-time during the Contract Period pertaining to the Distribution Assets;

"Material Adverse Effect" shall mean material adverse effect of any act or event on the ability of either Party to perform any of its obligations under and in accordance with the provisions of the Distribution Franchisee Agreement;

"Meter" means a device suitable for measuring, indicating and recording consumption of electricity or any other quantity related with electrical system and shall include, wherever applicable, other equipment such as Current Transformer (CT), Voltage Transformer (VT) or Capacitor Voltage Transformer (CVT) necessary for such purpose;

"MPERC" is the abbreviation for the Madhya Pradesh Electricity Regulatory Commission;

"Major Incident" shall mean an incident associated with the Distribution of electricity in the Franchisee Area which results in interruption in supply, damages to Distribution Assets, loss of life or injury to human beings, which as per rules and regulations is declared a Major Incident;

"Main Meter" means a Meter, which would primarily be used for accounting and billing of electricity;

"Minimum Input Energy" shall mean Energy Input on yearly basis at the Input Points as per Article 5.1;

"MPPTCL" shall mean Madhya Pradesh Power Transmission Company Limited;

"Performance Security" shall mean the security furnished by the Franchisee as per the provisions of the DFA;

"Prudent Utility Practices" shall mean the practices, methods and standards that are generally accepted nationally from time to time by electric utilities for the purposes of ensuring safe and efficient Distribution of electricity, operation and maintenance of Distribution Asserts, billing and collection of electricity bills etc;

"Project" shall mean the Project to distribute electricity and operate & maintain the Distribution Assets/ Distribution System in the Franchisee Area on behalf of the Distribution Licensee as per the provisions of the Electricity Act, 2003 and rules and regulations framed there under including the Standard of Performance and other Rules, Regulations, Codes laid down by the MPERC from time to time;

"Public Right of Way" shall mean the surface, the air surface above the surface and the area below the surface of any public street, highway, lane, path, alley, sidewalk, bridge, tunnel, parkway, waterway, easement, or similar property within the Franchisee Area, which consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining the Distribution System. No reference herein to a "Public Right of Way" shall be deemed to be representation or guarantee by the Distribution Licensee that its interest or other right to control the use of such property is sufficient to permit its use for such purposes and the Agreement shall be deemed to gain only those rights to use as are vested in the Distribution Licensee and as the Distribution Licensee may have the right and power to give;

"Request for Proposal" or "RFP" shall mean Request for Proposal document CMD/SE(BD)/Distribution of Elect./2011/02/Ujjain/12308 Dated 09th June 2011 along with all schedules, annexures and shall also include any modifications or amendments or alterations or clarifications thereto;

"R-15" refers to the statement prepared for each revenue feeder/ distribution centre/ division on a monthly basis with consumption details for each Consumer category;

"Selected Bidder" or **"Successful Bidder"** shall mean the bidder selected pursuant to the RFP and to whom the Letter of Award was issued by the Distribution Licensee to undertake the Distribution of electricity in the Franchisee Area as per the terms of this Distribution Franchisee Agreement;

"Standards of Performance" shall mean the Standards of Performance prescribed by the MPERC from time-to-time in relation to the Distribution Licensee;

"Store Issue Rate" shall means the value at which the individual items in the stores are issued to field from time to time, records of which are maintained at the respective area stores of the Distribution Licensee**;**

"Subsidy" shall mean amount of rebate or concession in the electricity tariff that the GoMP may in its absolute discretion decide in terms of section 65 of the Electricity Act, 2003 to be provided to any particular Consumer or class of Consumer in the Franchisee Area; and the term "Subsidized Consumer" shall be construed accordingly;

"Tariff Indexation Ratio (TIR_M)" shall be the ratio of Average Tariff in the Franchisee Area (AT_M) for the month and the Average Tariff for the Base Year ($AT_{Base\ Year}$) in the Franchisee Area as per calculation specified in Article 9.2.

"Termination" shall mean the termination of the Distribution Franchisee Agreement as per the provisions contained herein;

"Termination Notice" shall mean the communication issued in accordance with the Distribution Franchisee Agreement by either Party to the other Party notifying its intention for Termination of the Distribution Franchisee Agreement as per the provisions thereof;

"Transition Period" shall mean a period of six (6) months from the Effective Date in which all the activities specified in Article 4.4 would be completed;

"Transmission System" shall mean a line with associated sub-stations or a group of lines interconnected together, along with associated sub-stations and the term includes equipment associated with transmission lines and sub-stations;

ARTICLE 2.AUTHORISATION& RIGHT TO USE DISTRIBUTION ASSETS

2.1. Authorization to carry on Distribution in the Franchisee Area

2.1.1. Subject to and in accordance with the terms and conditions set forth in the Distribution Franchisee Agreement, the Distribution Licensee hereby authorizes the Distribution Franchisee,

(i) to use the Distribution Assets to distribute electricity to existing and prospective HT & LT Consumers in the Franchisee Area,

(ii) to operate and maintain the Distribution System from the Input Points to the metering point of all the Consumers in the Franchisee Area, on its behalf, and

(iii) to undertake all liabilities and obligations of the Distribution Licensee in the Franchisee Area as stipulated in the Electricity Act 2003 and other applicable Electricity Laws and regulations as they apply to the Distribution Franchisee in undertaking the functions of Distribution and supply of electricity in the Franchisee Area.

2.1.2. Without prejudice to the generality of Article 2.1.1, the activities to be undertaken by the Distribution Franchisee shall include:

(i) To ensure minimum assured supply hours of electricity to the Consumers as per directives of MPERC issued from time-to-time;

(ii) To ensure compliance to supply schedule and minimum supply hours to the Consumers as directed by the Distribution Licensee from time to time, to maintain uniformity with other areas operated by the Distribution Licensee without prejudice to the Article 2.1.2.(i), , subject to availability of power;

(iii) To carry on the Distribution of electricity in the Franchisee Area on behalf of the Distribution Licensee to the existing and prospective HT and LT Consumers of the Distribution Licensee. However, the supply of electricity above 33 kV is outside the purview of the Distribution Franchisee Agreement and Consumers being supplied electricity at the voltage level above 33 kV shall not be covered under this Agreement. Such consumers will continue to be the Consumers of the Distribution Licensee and not serviced through the Distribution Franchisee. The Distribution Franchisee shall not be entitled to take into account any implication of such supply at a voltage level more than 33 kV. All future Consumers at a voltage level above 33 kV shall also be serviced by the Distribution Licensee;

(iv) To effectively carry out all functions in the Franchisee Area which the Distribution Licensee is required to undertake in accordance with the provisions of the Electricity Act, 2003, Rules and Regulations framed there-under, Electricity Supply Code 2004 and Standards of Performance laid down for the purpose and other applicable directions of the MPERC as amended from time to time.

(v) To undertake necessary installations for new connections in co-ordination with the Distribution Licensee to ensure that supply of electricity is provided to the owner or occupier of any premises upon the receipt of application requiring such supply in accordance with the Electricity Supply Code, 2004 as in force from time to time;

(vi) To incur mandatory capital expenditure as per the provisions of Article 14.1 and incur any additional capital expenditure as may be considered necessary to meet the requirements of load growth and reduction of AT&C Losses;

(vii) To carry out Meter reading, bill generation, bill distribution, collection of payment, theft /irregularities detection and extend other services to the Consumers; as directed by the Distribution Licensee and MPERC and attain improvement in these services;

(viii) To provide effective redressal to the Consumer grievances and Complaints in accordance with the Electricity Laws;

(ix) To carry out operation and maintenance of the Distribution Assets and Distribution Franchisee Assets;

(x) Making payments to the Distribution Licensee as per terms & conditions of this Distribution Franchisee Agreement;

(xi) To ensure the safety and security of the Distribution Assets;

(xii) Not to levy or collect any cost, expense charges or tariff from the Consumers in excess of or in deviation to those allowed to be collected by the Distribution Licensee as per the orders and regulations of MPERC;

(xiii) To maintain rolling stock of transformers and other necessary materials as per the norms prescribed by the Distribution Licensee;

(xiv) To provide adequate men and machineries, vehicles, tools, etc. for performing all its activities within the time frame as prescribed by MPERC Regulations and as directed by the Engineer-in-charge;

(xv) Upgrading and renovating the existing Distribution Assets as per Prudent Utility Practices and the standards that may be prescribed by the Distribution Licensee;

(xvi) Submission of the management information system (MIS) reports periodically in the format to be prescribed by the Distribution Licensee;

(xvii) To increase the overall efficiency of Distribution System in the Franchisee Area;

(xviii) To reduce the AT&C Loss level in the Franchisee Area as per the provisions of this Agreement;

(xix) To carry out demand / load forecast of the Franchisee Area periodically and submit the same to the Distribution Licensee;

(xx) To carry out Energy Audit with respect to each distribution transformer and its corresponding feeder on monthly basis;

(xxi) Preparation of the data base and documents of Consumer indexing and Distribution Asset codes for route sequencing purpose if not already available;

(xxii) To comply with the directions of the Distribution Licensee and all the Laws, regulations, orders and directives of MPERC;

(xxiii) To prevent theft of electricity, unauthorized use or drawl of electricity, diversion of electricity, theft of lines and materials etc;

(xxiv) Any other activity, which is necessary and incidental to the above;

2.2. **Right to use Distribution Assets and Distribution Franchisee Assets**

2.2.1. The Distribution Franchisee shall be entitled to use Distribution Assets to perform its obligations under the DFA without paying any additional charge subject to the provision of

Article 18; the Distribution Licensee shall however, continue to be the owner of such Distribution Assets. Any improvement undertaken by the Distribution Franchisee on the Distribution Assets shall vest in the Distribution Licensee on the Expiry Date. The rights of the Distribution Franchisee in all such assets and improvements shall be limited to the use thereof for the purposes of this Agreement. In respect of Distribution Franchisee Assets, the Franchisee shall own and use such assets for the purposes of this Agreement only.

2.2.2. The Distribution Franchisee shall use and maintain Distribution Assets and Distribution Franchisee Assets at its own cost and keep them in good working condition as per Prudent Utility Practices.

2.2.3. On the Expiry Date, the Distribution Franchisee shall without demur hand over physical possession of Distribution Assets along with the improvements and Distribution Franchisee Assets in working condition, subject to normal wear and tear.

2.3. Any shortfall in the quantity of Distribution Assets, verified and recorded in the Joint Inspection Team's reportat the time of taking over the Project from the Distribution Franchisee with reference to the quantity of Distribution Assets handed over to the Distribution Franchisee, shall be recovered from the Distribution Franchisee at the cost of replacement of such assets. The Distribution Franchisee shall have the option, upon prior approval from the Distribution Licensee to make good the shortfall in Distribution Assets in the manner required by the Distribution Licensee.

2.4. **Grant of Franchisee**

2.4.1. Subject to the terms and conditions of the DFA and the Act, the Distribution Licensee agrees to make available electricity to the Distribution Franchisee at Input Points for Distribution in the Franchisee Area and the Distribution Franchisee hereby agrees that it shall perform all the obligations and accept all the liabilities of Distribution for the Franchisee Area as stipulated in the Electricity Laws, as they apply to the Distribution Licensee and other activities as stipulated in the DFA. In consideration of the above, the Distribution Franchisee shall have right to use the Distribution Assets, Public Right of Way and all other rights, powers and authorities available to the Distribution Licensee to perform its obligation under the DFA.

2.4.2. All directives, issued by MPERC to the Distribution Licensee and provisions of the Act and other Electricity Laws shall be binding on the Distribution Franchisee.

ARTICLE 3. TERM OF DISTRIBUTION FRANCHISEE AGREEMENT

3.1. **Term of Agreement:**

The Distribution Franchisee Agreement shall have a term of Fifteen (15) years commencing on the Effective Date, unless:

(i) terminated earlier, pursuant to Article 3.2, or

(ii) extended, pursuant to Article 3.3

3.2. **Early Termination**

The DFA shall terminate before the period specified in Article 3.1:

(i) If either the Distribution Licensee or the Distribution Franchisee exercises their right to

terminate, pursuant to Article 32.

(ii) In such other circumstances as the Distribution Licensee or the Distribution Franchisee may subsequently agree, in writing

3.3. **Extension of Term of Agreement**

The Distribution Licensee may at its sole discretion extend the Term of Agreement for not more than one (1) year and in case of such extension the terms and conditions as applicable immediately before extension shall be applicable for the extended period. The Distribution shall notify the Distribution Franchisee its intention to extend the Term of Agreement atleast three (3) months prior to the Expiry Date. The Distribution Franchisee shall be obliged to accept such extension requested by the Distribution Licensee.

ARTICLE 4. CONDITIONS PRECEDENT& CONDITIONS SUBSEQUENT

4.1. **Conditions precedent**

The Parties shall be responsible to provide the required documents and take all actions to satisfy the conditions precedent within stipulated time from the date of execution of the DFA or such extended period as may be mutually agreed between the Parties.

4.2. **Distribution Franchisee's conditions precedent**

4.2.1. The Distribution Franchisee shall make available the following documents to the Distribution Licensee within thirty (30) days of execution of the DFA:

4.2.1.1. A legal opinion from the legal counsel of the Distribution Franchisee with respect to the authority of the Distribution Franchisee to enter into the DFA;

4.2.1.2. Certified true copies of its constitutional documents;

4.2.1.3. A declaration that all of the representations and warranties of the Distribution Franchisee set forth in Article 27 are true and correct as on the date of execution of the Distribution Franchisee Agreement; and

4.2.1.4. Copies (certified as true copies by a Director or Company Secretary of the Distribution Franchisee) of all resolutions adopted by the Board of Directors of the Distribution Franchisee authorizing the execution, delivery and performance by the Distribution Franchisee of the DFA.

4.2.2. **Waiver of conditions precedent**

On the request of the Distribution Franchisee or otherwise, the conditions precedent set forth in Article 4.2.1, may be waived fully or partially by the Distribution Licensee any time at its sole discretion.

4.2.3. **Right to Terminate**

If the conditions precedent set forth in Article 4.2.1 have not been satisfied before the expiry of the period specified, or, where applicable, have not been waived, fully or partially, under

Article 4.2.2, the Distribution Licensee shall have the option but not an obligation to Terminate the DFA, notwithstanding anything to the contrary contained in the DFA,.

4.2.4. In the event that the DFA is terminated for the non-fulfillment of the Distribution Franchisee's conditions precedent specified under Article 4.2.1 above, the Distribution Licensee shall be entitled to forfeit an amount equal to fifty percent (50%)of the Performance Security provided by the Distribution Franchisee.

4.3. **Conditions precedent to be satisfied by the Distribution Franchisee and the Distribution Licensee jointly**

The following conditions precedents shall be satisfied prior to the Effective Date.

4.3.1. **Completion of Joint Inspection**

The Joint Inspection Team shall complete the preparation/ verification of the data and information listed below as on an agreed date:

4.3.1.1. Distribution Asset Inventory;

4.3.1.2. Inventory of O&M spares with cost worked out as per Store Issue Rate;

4.3.1.3. Ongoing contracts for capital investment and/or operation and maintenance which shall form part of the DFA;

4.3.1.4. Demarcation of the geographical boundary of the Franchisee Areas and electrical boundary of the Distribution System including identification of the consumers which are eligible to get supply from the Distribution Franchisee;

4.3.1.5. Details of all Input Points and interface point(s)in the Franchisee Area;

4.3.1.6. Identifying and listing of all dedicated feeders meant for Franchisee Area and areas other than the Franchisee Area, if any;

4.3.1.7. Details of Disconnected Consumers in the Franchisee Area;

In case where the details of any of the above items cannot be ascertained, suitable mutually agreed procedures shall be agreed to ascertain the same. Further, in case it is not possible to complete the Distribution Asset Inventory within the stipulated period, both the Parties may mutually decide to extend the time-line for completion of the Distribution Asset Inventory for the period not exceeding upto the Transition Period.

4.3.2. The Engineer-in-charge and the Franchisee Representatives shall conduct a joint verification of the Main Meter and Interface Meters at the Input Point(s) and, in case of such Meters found defective, shall be replaced as per the provisions of Article 6.1.2 before the Effective Date by the Distribution Licensee.

4.3.3. The Distribution Licensee shall facilitate the Distribution Franchisee in getting authorization from GoMP, if any required, for undertaking Distribution of electricity in the Franchisee Area as per the provisions of the Electricity Act 2003 or any other Regulations/guidelines issued by Government Instrumentality from time to time.

4.4. **Conditions subsequent to be satisfied by the Distribution Franchisee and the Distribution Licensee jointly during Transition Period**

The Joint Inspection Team shall complete the preparation/ verification of the data and information and finalise as listed below:

4.4.1. Determination of Arrears separately for Disconnected and connected Consumers for the period up to the Effective Date including the arrears accrued during the last Consumer billing cycle immediately preceding the Effective Date . The Arrears under litigation, vigilance and audit recoveries shall be separately mentioned. The arrears so determined shall be provisional and shall be finalized after a period of three (3) months from the Effective Date subject to the provision under Article 12.5(ii) which shall remain fixed;

4.4.2. Credit balance from Disconnected and connected Consumers including security deposit available with the Distribution Licensee as on the Effective Date;

4.4.3. List of Consumers for which service connection charges (SCC) has been received by the Distribution Licensee but connections have not been provided as on the Effective Date;

4.4.4. Create awareness amongst Consumers and local administration in the Franchisee Area about the appointment of the Distribution Franchisee for Distribution and supply of electricity in the area;

4.4.5. Define the periodicity of carrying out joint inspection of metering status as per the provisions of Article 14.1;

4.4.6. Installation of Check Meter by the Distribution Franchisee at Input Point(s);

4.5. All the conditions subsequent stated above shall be satisfied within Transition period.

ARTICLE5.AVAILABILITY OF POWER SUPPLY

5.1. Minimum Input Energy

5.1.1. The Distribution Licensee shall make available minimum of 1362.68 MUs Input Energy at Input Point(s) on an annualized basis.

5.1.2. The Minimum Input Energy shall be subject to reduction in the following cases, on a non-discriminatory basis -

a. Directives issued by the SLDC or MPERC on load shedding;

b. Non availability of EHV transmission capacity at Input Points;

c. Break down / Shut down of Transmission System and/or Distribution System;

d. Shut-down period for complying with the direction of any Government Instrumentality for technical reasons;

e. Directives issued by the Distribution Licensee/ Load Dispatch Centre to comply with regulatory measures for grid discipline;

f. Force Majeure events; and

g. Non availability of power to the Distribution Licensee from the suppliers of power for any reason whatsoever.

5.2. Without prejudice to the foregoing, the Distribution Licensee shall not discriminate in the supply of electricity between the Franchisee Area and other similar areas owned by the Distribution Licensee. Similar area shall mean the circles under the Distribution Licensee where the share of sanctioned agricultural load to the total load is closest to such share of agricultural load of the Franchisee Area.

5.3. The electricity made available through the Input Points by the Distribution Licensee shall not be sold or supplied to any person other than the Distribution Licensee's present and prospective Consumers in the Franchisee Area.

5.4. The Distribution Franchisee may, with the approval of the MPERC, procure electricity from sources other than the Distribution Licensee for expected shortfall in supply or during the period of load shedding implemented as per directive under Article 5.1.2. If reliability improvement is on account of electricity being procured by the Distribution Franchisee, then reliability charges, if any approved by MPERC and levied to the Consumer, may be retained by the Distribution Franchisee. The Distribution Licensee shall facilitate the Distribution Franchisee to approach the MPERC for approval of such procurement scheme. The Distribution Licensee shall not bear any cost or expenses towards any such procurement of electricity from other sources by the Distribution Franchisee. The Distribution Licensee will have no responsibility or liability if such procurement schemes are not approved or are rejected by MPERC or any condition is imposed for such scheme. However, for the purpose of calculation of tariff indexation ratio (TIR_M), such reliability charges, if any approved by the MPERC, shall not be considered.

5.5. In case of procurement of electricity from other sources as per Article 5.4and its Distribution in the Franchisee Area, transmission charges as applicable for use of the inter-state and/or intra-state transmission system, shall be payable by the Distribution Franchisee as per the prevailing regulations of the Appropriate Commission.

5.6. The Distribution Licensee shall also assist the Distribution Franchisee in obtaining information from MPPTCL about availability of transmission capacity for evacuation of electricity purchased from other sources.

5.7. The Distribution Franchisee shall strictly adhere to the planned or unplanned load shedding directives issued by the Distribution Control Centre of the Distribution Licensee or State Load Despatch Centre

as the case may be for grid discipline. However the Distribution Franchisee shall have the flexibility to procure additional power from third party to supply the electricity in the Franchisee Area, as long as it meets the requirements of the grid discipline.

5.8. The Distribution Licensee shall monitor power supply to the Distribution Franchisee up to the Minimum Input Energy as per Article5.1.1 on regular basis.

If the first and last year of the Contract Period is a part of any financial year, the Minimum Input Energy for that period shall be determined on the basis of Input Energy during the corresponding period of the year which has been considered for determination of the Minimum Input Energy.

5.9. The Distribution Licensee shall also monitor the compliance of MPERC directives on minimum assured daily supply hours to rural areas coming under the Franchisee Area on monthly basis.

In case of shortfall in daily average of supply hours, based on monthly data, maintained in the rural areas is found to be more than ten percent (10%) in any month as compared to the MPERC directives, an amount computed as per the following formula shall be recovered from the Distribution Franchisee as penalty.

Penalty to be recovered by the Distribution Licensee thorough the Supplementary Invoice (SI)

= ((Hours of daily shortfall in supply)/ (Average of daily actual supply hours))* (actual energy input on the feeder(s) during the month in the rural area)* (Input Rate).

Without prejudice to any penalty as calculated above, in case the Distribution Franchisee fails to maintain the daily average of supply hours in any rural feeder for three(3) consecutive months as compared to directives of the MPERC directives on minimum assured daily supply hours in rural areas, it shall be treated a Franchisee's event of default.

ARTICLE 6.METERING AT INPUT POINTS

6.1. Installation of Meters at Input Points

6.1.1. Installation of 33kVMain Meters at Input Points has been done by the Distribution Licensee. The Distribution Franchisee shall install and maintain Check Meters at each Input Point as per the provisions of the Article 4.4.6. The Distribution Franchisee shall comply with the Central Electricity Authority (installation and operation of Meters) Regulation 2006 as amended from time to time.

6.1.2. In case of failure of any of the 33kVMain Meters or metering equipment, timely replacement and installation of Main Meters shall be the responsibility of the Distribution Licensee.

6.1.3. Metering system of Main Meter and Check Meters shall be sealed in the presence of Franchisee Representative, Engineer-In-Charge and MPPTCL and shall not be opened, tested or calibrated except in their presence.

6.1.4. In case the difference between the recorded monthly consumption of the Main Meter and the Check Meter for any calendar month is within ± 0.5%, the measurement of the Main Meter shall be taken as final. If however, the variation exceeds ± 0.5%, the measurement shall be governed as per the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended from time-to-time.

6.1.5. The Distribution Licensee shall inspect and recalibrate the metering system on a regular basis, at least once in every three (3) months or at a shorter interval at the request of other Party.

6.2. The Distribution Franchisee shall be responsible for replacement of defective Check Meters, including all required accessories at its own cost, at Input Point(s) within a period of one (1) month.

ARTICLE 7. JOINT METER READING AT INPUT POINTS

7.1. First joint Meter reading at Input Points by both the Parties shall be carried out at 0.00 hours on the Effective Date.

7.2. The Distribution Licensee and the Distribution Franchisee shall carry out Main Meter and Check Meter readings jointly at the Input Points at 18.00 hours, every week, i.e., on 7th, 14th, 21st and 28th day in the first year of the Contract Period and on the last day of every calendar month during the first year as well as in the subsequent years of the Contract Period. The Distribution Licensee shall raise Monthly Invoice based on the Input Energy supplied during the month based on joint Meter readings of Main Meter. Adjustments, if any, shall be carried out for weekly reading based on aforesaid mentioned Meter reading. After completion of first anniversary of the Effective Date, the Distribution Franchisee shall carry out weekly Meter reading at Input Points at 18.00 hours on 7th, 14th, 21st& 28th day of each calendar month on its own and intimate the same to the Distribution Licensee by 10.00 hours on the next Business Day.

7.3. In the event of defect in the Main Meter, accounting of the Input Energy shall be considered on the basis of data recorded in the Check Meters. However, until 0.5 accuracy class or better Meters are installed as Main Meters, the reading of Check Meter shall be used for billing provided the Check Meters are of 0.5 accuracy class.

ARTICLE 8.PREPARATION AND DELIVERY OF MONTHLY INVOICE

8.1. The Distribution Licensee will raise Monthly Invoice on the basis of joint Meter reading taken on the last day of every calendar month at 18.00 hours as per Article 7.2 above. Distribution Licensee shall, through its Engineer-in-charge, deliver the Monthly Invoice to the Distribution Franchisee, not later than ten (10) days of the last day of the previous month.

8.2. The Monthly Invoice for Minimum Input Energy shall be the aggregate units calculated on the basis of the difference of the Meter readings, at all the Input Points, between the two successive readings taken on the last day of every calendar month at 18.00 hours minus the Input Energy procured by the Distribution Franchisee from other sources as per the provisions of Article 5.5.

8.3. Supplementary Invoice (SI) shall be prepared and delivered to the Distribution Franchisee for amounts payable on account of Security deposit, adjustment in Input Rate due to tariff indexation and any other charges payable by the Distribution Franchisee in terms of the provisions of this Agreement. The supplementary Invoice in respect of all the payments due from the Franchisee for the previous month shall be delivered to the Franchisee not later than twenty-five (25) days of the last day of the previous month.

ARTICLE 9.BILLING

9.1. The Monthly Invoice to be raised by the Distribution Licensee on the Distribution Franchisee shall consist of the following components and calculated as below:

$\mathbf{MI = EI_M * AIR_M}$

Where,

MI = Monthly Invoice

$\mathbf{EI_M}$ = Energy Input in kWh during the relevant month less energy sourced by the Distribution Franchisee from other sources.

$\mathbf{AIR_M}$= Annual Input Rate applicable for the relevant month as per **Annexure -II**

9.2. The Supplementary Invoice (SI) to be raised by the Distribution Licensee on the Distribution Franchisee every month shall consist of the following components and calculated as below:

$$\mathbf{SI=(RTA_M + NC_M + S_M + RT_M + PEL_{DFA} + EMP_M + RAV_M} + ADJ_N + \mathbf{MISC_M) - (ADV_M + INRAV_M + SDI_M)}$$

Where,

$\mathbf{RTA_M}$ = **Revenue for Tariff Adjustment for the month**

$\mathbf{RTA_M}$= EI_M * AIR_M * (TIR_M - 1)

$\mathbf{TIR_M}$= AT_M / $AT_{\text{Base Year}}$ as determined under Article 9.3

$\mathbf{AT_M}$ and $\mathbf{AT_{\text{Base Year}}}$ is the Average Tariff in the Franchisee Area for the month and for the Base Year respectively calculated on the basis of methodology adopted for computation as per **Annexure-III**

$\mathbf{NC_M}$ is the amount collected for new connections from the Consumers provided during the relevant month as per information received under Article 12.6(vi).

$\mathbf{S_M}$ is the surcharge @ 1.25% (one point two five percent) per month on the outstanding amount payable for every day of delay in payment by the Distribution Franchisee as per Article 10.2

$\mathbf{RT_M}$ is the payment due from the Distribution Franchisee during the relevant month for use of Meter testing facilities as per Articles 12.6(iv).

$\mathbf{PEL_{DFA}}$ is the penalty leviable on the Distribution Franchisee as per the provision of Article 5.9, 12.9, 12.4.(v), 14.2 and 19.3, or any other provision in the DFA.

$\mathbf{EMP_M}$ is the amount against terminal benefits of the Distribution Licensee's employees on deputation with the Distribution Franchisee calculated as per the provisions of the Article 24.5.

$\mathbf{RAV_M}$ is the amount collected against recoveries on account of audit and vigilance checking from the Consumers pertaining to the period before the Effective Date as per Article 11.4.

$\mathbf{ADJ_N}$ is any adjustment arising out of Tariff Indexation Ratio certification by the Independent Auditor.

$MISC_M$ is any other miscellaneous charges payable by the Distribution Franchisee as per the provisions of the Article 12.5(vii), Article 18 and any other provisions under this Distribution Franchisee Agreement.

ADV_M is the adjustment against advance amount collected by the Distribution Licensee as per the provisions of Article 12.5(x).

$INRAV_M$ is the amount of incentive payable to the Distribution Franchisee on account of collection against recoveries through audit and vigilance checking from the Consumers pertaining to the period before the Effective Date as per Article 11.4.

$INRAV_M = 0.25*RAV_M$

$SDI_M$is the Interest on Consumer Security Deposit for existing connections in the Franchisee Area during the relevant month as per the provisions of Article 12.5(viii).

9.3. Tariff Indexation Ratio (TIR_M) shall be the ratio of Average Tariff in the Ujjain district (AT_M) for the month and the Average Tariff Rs. 3.15 for the Base Year ($AT_{Base\ Year}$) in the Ujjain district. The Tariff Indexation Ratio shall be computed for every month and the same shall be used for computation of the revenue for Input Energy for units supplied to the Distribution Franchisee in the respective calendar month as per Supplementary Invoice (SI). The tariff for all Consumer categories used in the formula is net of Subsidy and subject to the provision of Article 5.4.

The value of monthly Tariff Indexation Ratio shall be certified by an Independent Auditor at the end of each year. The Tariff Indexation Ratio shall be considered as provisional until it is certified by an Independent Auditor at the end of each year. Any adjustment (payable or recoverable) arising out of such certification by the Independent Auditor shall be adjusted through Supplementary Invoice in immediately following Supplementary Invoice (SI) after the date of certification. The fees and associated expenditure for such certification shall be equally shared by the Distribution Franchisee and the Distribution Licensee.

ARTICLE 10. PAYMENT OF INVOICES

10.1. The Distribution Franchisee shall make the payment in full of Monthly Invoice (MI) and Supplementary Invoice (SI) within the Due Date. The payment shall be made by credit to the designated account of the Distribution Licensee through ECS or by pay order drawn on any schedule bank and payable at Ujjain.

10.2. In case full payment towards Monthly Invoice (MI), Supplementary Invoice (SI)is not made by the Distribution Franchisee within the Due Date as per the provisions of the Agreement, a surcharge @ 1.25% (one point two five percent) per month on the outstanding amount shall become payable for every day of delay by the Distribution Franchisee.

10.3. In the event that the payment towards Monthly Invoice (MI) and Supplementary Invoice (SI)or any part thereof remains unpaid by the Distribution Franchisee for a period of Fifteen (15) days from the Due Date, the Distribution Licensee shall invoke the Performance Security furnished by the Distribution Franchisee.

10.4. All payments made by the Distribution Franchisee shall be appropriated by the Distribution Licensee in the following order of priority:

(i) towards Late Payment Surcharge, payable to the Distribution Licensee as per the provisions of Article 10.2, if any;

(ii) towards earlier unpaid Monthly Invoice (MI), if any;

(iii) towards earlier unpaid Supplementary Invoice (SI), if any;

(iv) towards the current Monthly Invoice (MI), if any; and

(v) towards the current Supplementary Invoice (SI).

10.5. Where any Monthly Invoice (MI) and Supplementary Invoice (SI) raised by the Distribution is disputed by the Distribution Franchisee("Disputed Invoice"), the Distribution Franchisee shall, notwithstanding such Dispute be bound to remit the payment against such Disputed Invoice to the Distribution Licensee within the Due Date. The Distribution Franchisee shall record its objection in writing, indicating nature of Dispute, cause of Dispute and documentary evidence in support of its objection, within seven (7) days of receipt thereof, failing which such Monthly Invoice (MI) and/or Supplementary Invoice (SI) shall be deemed to have been accepted. Any matter relating to a Disputed Invoice shall be settled through the Dispute Resolution Mechanism as per Article34.

10.6. If service tax on the services provided by the Distribution Franchisee to the Distribution Licensee is applicable during the Contract period on the Distribution Franchisee, the same shall be paid by the Distribution Franchisee and reimbursed by the Distribution Licensee against submission of documentary evidence in support of the payment made.

ARTICLE 11. COLLECTION OF ARREARS

11.1. From the Effective Date, the Distribution Franchisee shall be authorized to collect the Arrears determined under Article 4.4.1and the Consumer bill for the last billing cycle ending on any date prior to the Effective Date as per the provision of the Article 12.5(ii). The Arrears prior to the Effective Date have been classified in two categories:

(i) **"Connected Arrears"** - Arrears prior to the Effective Date due from the Consumers who are legally connected to the Distribution System of the Franchisee Area.

(ii) **"Disconnected Arrears"** - Arrears prior to the Effective Date due from any type of Disconnected Consumers who are no longer connected with the Distribution System.

The Distribution Franchisee shall not have any obligation to collect any surcharge becoming due after the Effective Date on the Arrears determined under Article 4.4.1, however if such surcharge is collected by the Distribution Franchisee, the same shall be retained by the Distribution Franchisee.

11.2. From the Effective Date, the Distribution Franchisee shall be authorized to retain the amount collected against Arrears determined under Article 4.4.1. The Distribution Franchisee shall also maintain separate individual accounts of collection of Arrears from the Consumers under various heads such as energy charges, recoveries on account of audit and vigilance checking etc. On the Expiry Date, the Distribution Franchisee shall make available the list of Consumers with Arrears as on that date.

11.3. Connected or Disconnected Arrears, to the extent of the amounts under litigation on the Effective Date as per provisions at Article 4.4.1, shall not be dealt with by the Distribution Franchisee. The responsibility to recover and retain the Arrears to the extent of amounts under litigation on the Effective Date shall rest only with the Distribution Licensee.

11.4. The Distribution Franchisee shall be responsible for collection against amount recoverable on account of audit and vigilance checking from the Consumers pertaining to the period before the Effective Date. The Distribution Franchisee shall pay such amount to the Distribution Licensee and the Distribution Licensee shall pay an incentive to the Distribution Franchisee towards collection against such recoveries @ twenty-five percent (25%). Upon recovery, the Distribution Franchisee shall, provide the details of such collection from the Consumers to the Distribution Licensee on monthly basis within ten (10) days of the following month along with its claim for incentive, which shall be incorporated in the Distribution Franchisee's Supplementary Invoice (SI) as per the provisions of the Article 9.2. However, the Distribution Franchisee shall retain the collection against recovery on account of audit and vigilance checking from the Consumers pertaining to the period after the Effective Date.

11.5. The amount collected by the Distribution Franchisee from the connected and Disconnected Consumers, either in full or in part thereof, shall be adjusted in the Consumer account as per the Supply Code issued by MPERC from time-to-time.

11.6. In case the Distribution Franchisee permanently disconnects any Consumer existing as on Effective Date in the Franchisee Area, the Distribution Franchisee shall be responsible for collection of an amount to the extent of Arrear net of the Security deposit available in the Consumer account. The Distribution Licensee shall not pass on any credit to the Distribution Franchisee towards such refund and adjustment of the Security deposit available in the Consumer account.

ARTICLE 12.CONSUMER SERVICES

12.1. The Distribution Franchisee shall undertake all aspects of Consumer services as provided in the applicable Electricity Laws including rules, regulations, Standards of Performance, Electricity Supply Code etc. in the same manner as the Distribution Licensee is obliged.

12.2. Without prejudice to the generality of Article 12.1, the duties and responsibilities of the Distribution Franchisee in relation to Consumer services shall include the following:

12.3. **Metering and Meter Reading**

(i) The Distribution Franchisee shall be responsible for the Meter reading of all the Meters installed at the Consumers end (including temporary Consumers) in the Franchisee Area. The frequency of Meter reading shall be in accordance with the Supply Code. The Distribution Franchisee shall be responsible for correctness of reading.

(ii) The Distribution Franchisee shall have option to continue the spot billing to the Consumers through agency as engaged by the Distribution Licensee. However the charges for such spot billing of the Franchisee Area shall be borne by the Distribution Franchisee.

(iii) The Distribution Franchisee shall be responsible for replacement of Meters, including all accessories at its own cost, at the Consumer end, in the event of the existing Meter installed is found to be defective or reported burnt by the Consumer.

(iv) The Distribution Franchisee shall also be responsible for replacement of Meters, including all required accessories at its own cost, for metering at the level of distribution transformers and at all 11 kV feeders for ensuring complete energy audit.

12.4. **Billing and Delivery:**

(i) The Distribution Franchisee may at its discretion use the existing billing software of the Distribution Licensee or use its own software for Consumer billing in the Franchisee Area. In case, the Distribution Franchisee opts to use the existing billing software, the Distribution Licensee shall provide all the necessary assistance to the Distribution Franchisee during the Transition Period including access to the database and network. If the Distribution Franchisee opts to use its own billing software, then it shall ensure to meet all the requirements of the MPERC and/or the Distribution Licensee as prescribed from time-to-time. The Distribution Franchisee shall demonstrate the compatibility of its billing software with the existing billing software of the Distribution Licensee and seek prior approval of the Distribution Licensee.

(ii) The Distribution Franchisee shall be responsible for the timely delivery of bills to the Consumer as per the Electricity Laws.

(iii) All the stationery including receipt books required for billing and collection and any other related formats shall be arranged by the Distribution Franchisee at its own cost. All such formats shall comply with the Tariff Order and other relevant regulations of MPERC in force from time to time.

(iv) In the event that any Consumer in the Franchisee Area avails open access under the extant regulations, the Distribution Franchisee shall raise the Consumer bill in respect of such Consumer monthly for the cross-subsidy surcharge, wheeling charges or any other charges payable by such Consumers as per the direction of MPERC. The Distribution Franchisee shall retain the cross-subsidy surcharge and other amounts collected from the Consumer shall be remitted to the Distribution Licensee.

(v) Bills to unmetered Consumers shall be issued strictly as per directives of MPERC. Bills to metered consumers shall be issued on the basis of actual meter reading subject to provisional billing and billing on the basis of average monthly consumption as per provision available in the Supply Code or any other directives of MPERC. Franchisee shall take immediate action for removal of cause of such assessment of consumption of metered Consumers before next billing cycle. Any Consumer bill on the basis of assessment of consumption shall be issued as per available directives of MPERC. The Franchisee shall make available Consumer-wise details of billing done on assessment basis along-with reasons thereof, to the Engineer-in-Charge within ten (10) days of the following month. The Distribution Licensee shall have the right to review the cases of Consumers billed on the basis of assessment of consumption. If any Consumer is billed on the basis of assessed consumption and/or unreasonable assessment on a ground other than as provided in the Supply Code or any directives by MPERC, the Distribution Licensee shall have a right without prejudice to any other right as per this Agreement, to recover a penalty from the Franchisee equal to such amount billed to such Consumers. In case of any metered Consumer is billed on assessment of consumption basis for two consecutive billing cycles, it shall be treated a Franchisee's event of default.

12.5. **Collection:**

(i) From the Effective Date to the Expiry date, the Distribution Franchisee shall be responsible for the collection of payment of Consumer bills in the Franchisee Area. Advance against billing demand accepted by the Distribution Licensee / Distribution Franchisee or any credit

available in the account of Consumer, shall be adjusted to the account of the Distribution Licensee or the Distribution Franchisee as the case may be.

(ii) The Distribution Franchisee shall collect the amounts due from the Consumers on day to day basis and remit to the Distribution Licensee, on the next Business Day, the amount collected on previous working day against the Consumer bills for the last Consumer billing cycle immediately preceding the Effective Date up-to a period of three (3) months from the Effective Date.

(iii) On the Expiry Date, the Distribution Licensee shall allow the Distribution Franchisee to collect amounts due from the Consumers as per the provisions of Article 32.11.2.

(iv) The Distribution Franchisee will be free to collect the payment of Consumer bills in any manner as deemed fit to ensure better Consumer service and collection efficiency in addition to those provided in Article 18.2.

(v) The Distribution Licensee shall assist the Distribution Franchisee for collection of Consumer bills due from Government Instrumentalities.

(vi) The Distribution Franchisee shall extend IT enabled systems in the Franchisee Area to provide better services to the Consumers relating to payments and introduce online payment facility in due course after the Effective Date but within the Transition Period.

(vii) The Distribution Franchisee shall, from the Effective Date, be entitled to retain and appropriate all payments received against any Consumer bill. However, the Distribution Franchisee shall account for and remit to the Distribution Licensee the following:

a) all amounts billed to the Consumer on account of the taxes, additional security deposit except electricity duty and cess for existing Consumers, if any,

b) amount received against last billing cycle ending on any date prior to the Effective Date as per the provisions of the Article 12.5.(ii).

(viii) The amount of interest which is credited in the Consumer bill on account of Security Deposit as per the guidelines of MPERC shall be credited in Franchisee's Supplementary Invoice (SI).

(ix) In the event that the Distribution Franchisee fails to make the payment of electricity duty and cess and any other taxes payable on sale of energy in accordance with the Distribution Franchisee Agreement, the Distribution Licensee shall, without prejudice to any other right, recover such amounts by invoking the Performance Security. The amount by which the Performance Security is invoked shall be restored as per Article 23.6.

(x) Advance amount against Consumers including the temporary connection collected by the Distribution Licensee prior to the Effective Date for which electricity is provided by the Distribution Franchisee shall be adjusted in the Supplementary Invoice (SI) as per billed amount raised by the Distribution Franchisee for such connections.

12.6. **New Connection**

(i) The Distribution Franchisee shall be responsible to collect, process and sanction all applications for new connections, including those for temporary connections as per the rules

and procedures as applicable to the Distribution Licensee. For new connections, all the accessories including the Meter shall be provided by the Distribution Franchisee. The Distribution Franchisee shall not release new permanent or temporary connections to Consumers without installing Meter except under prior permission from Engineer-in-charge. The Engineer-in-charge shall permit release of new un-metered connections to certain Consumers after recording specific circumstances and reasons.

(ii) The Distribution Licensee after having received the details of all new connections provided by the Distribution Franchisee in a particular month would by itself do the Consumer verification as considered necessary.

(iii) The Distribution Franchisee shall make arrangements for releasing new connections to the Consumers in the Franchisee Area as per the provisions contained in Electricity Supply Code, 2004, as in force from time to time.

(iv) All the Meters provided by the Distribution Franchisee for new connections, replacement of burnt/damaged Meters shall be tested at the Meter Testing Laboratory of the Distribution Licensee. The cost of Meter testing shall be borne by the Distribution Franchisee as per the rate prescribed by the Distribution Licensee. However, the Distribution Franchisee may use any other approved and credible Meter testing laboratory or set up its own Meter testing laboratory subject to meeting the quality procedures and standards of National Accreditation Board for Testing and Calibration Laboratories (NABL). The certification of the laboratory setup by the Distribution Franchisee shall be made available to the Distribution Licensee. All Meter testing reports shall also be made available to the Distribution Licensee on a regular basis.

(v) The Distribution Franchisee shall extend supply to the Disconnected Consumers with prior intimation in writing to the Engineer-in-Charge duly acknowledged.

(vi) Apportionment of the amount received from the Consumer for new connections shall be done in the following manner:

c) The Distribution Franchisee shall retain service connection charges (SCC); supervision charges from the Consumers for giving all types of new connections as prescribed by the MPERC;

d) Where the Distribution Franchisee incurs any expenditure for providing a new connection, the Distribution Franchisee shall be entitled to retain the full costs of works recovered from the Consumer;

e) Security Deposit and any other charges recovered except those under the provision of the Article 12.6 (vi) (a) and (b) as per the regulations of MPERC/ Supply Code/ Standards of Performance on the Consumers for giving new connections shall be transferred to the Distribution Licensee in full without any adjustment or deduction whatsoever as applicable from time-to-time;

(vii) Meter rent for the Meters installed by the Distribution Franchisee and those installed by the Distribution Licensee shall be retained by the Distribution Franchisee. The Distribution Licensee shall be responsible for providing connection to those Consumers who have deposited the Service Connection Charges to the Distribution Licensee as per Article 4.4.3. In

all other cases, the Distribution Franchisee shall be responsible for providing new connection to the Consumers in the Franchisee Area as per the provisions of the DFA.

12.7. **Prevention of theft and malpractices**

(i) The Distribution Licensee shall extend any possible assistance for dealing with the matters specified under Chapter XII and lodging complaint in the court of law under Chapter XIV of the Act. The Distribution Franchisee is empowered to search and seizure vide GoMP Energy Department Notification no. F1-004/2007/XII and amended notification no. 2495-XII-2004 dated 17.5.2004. The appellate authority under Section 127 of the Act shall be the officers appointed by GoMP.

(ii) The Distribution Franchisee may consider the use of innovative operating systems and technical solutions for AT&C Loss reduction, theft of electricity, electric lines, materials, credit control, etc. Before implementing such a system the Distribution Franchisee will submit such plans, processes and procedures to "Engineer-in-charge" for approval of the Distribution Licensee. The Distribution Licensee may intervene to modify the plans, processes and procedures submitted by the Distribution Franchisee, only in the event that they are likely to lead to the violation of Electricity Laws.

(iii) Any review committee(s) formed before or after the Effective Date by the Distribution Licensee for review of cases in its area, under Section 135 and/or 138 of the Act shall continue to have jurisdiction in the Franchisee Area. The decisions of such committee shall be binding on the Distribution Franchisee. The Distribution Franchisee shall not prevent any Consumer from availing benefit of review by such review committee(s).

12.8. **Electricity Consumer Grievance Redressal Service**

(i) During the period of first three (3) months from the Effective Date, the Distribution Franchisee shall have option to use existing consumer service centres of the Distribution Licensee for complaint handling system. Electricity and other charges for such centre, if any shall be borne by the Distribution Franchisee.

(ii) The consumer service centre shall provide for complaint handling system wherein the Consumer can lodge the complaint by phone or by approaching in person or through IT enabled system and receives acknowledgment thereof.

(iii) The Distribution Franchisee shall maintain the roster of Complaints in his office and shall redress the Complaints on first come first serve basis. The procedure of addressing Complaints on first come first serve basis shall not be deviated without just and proper cause.

(iv) The Electricity Consumers grievance redressal forum established under section 42 of the Electricity Act, 2003, having jurisdiction over the Franchisee Area shall continue to have the jurisdiction over the Franchisee Area.

(v) The Distribution Franchisee shall establish its own Consumer grievances redressal mechanism within a period of one (1) month from the Effective Date for speedy redressal of grievances of the Consumer,. The Distribution Franchisee shall submit report of such forum as per the Electricity Laws to the Distribution Licensee in the formats as required by the MPERC from time-to-time.

(vi) The Distribution Franchisee shall make available on demand, a copy of the complaint handling procedure revised from time to time, for inspection by the public at consumer service centre.

12.9. The responsibility of the Distribution Franchisee as to the Consumer services mentioned under Article 12 or elsewhere in this Distribution Franchisee Agreement is by no means exhaustive and is without in any way affecting the obligation and responsibility of the Distribution Franchisee to undertake and duly fulfill all responsibilities and obligations which the Distribution Licensee is required to fulfill in its capacity as the Distribution Licensee if the Distribution Franchisee Agreement has not been entered into. The Distribution Franchisee shall comply with Electricity Laws and other conditions of supply as laid down by MPERC from time to time and any penalty, compensation charges etc. imposed by any Government Instrumentality for non-compliance thereof shall be borne by the Distribution Franchisee. In such an event, without prejudice to any other right as per provisions of this Agreement, Distribution Licensee shall have a right to recover an equivalent amount as a penalty from the Distribution Franchisee, through Supplementary Invoice (SI).

12.10. In case GoMP launches any scheme for the benefit of the Consumers, the Distribution Franchisee shall facilitate to extend such benefit to the Consumers. However, any compensation towards implementation of such scheme(s) in the Franchisee Area shall be passed on to the Distribution Franchisee to the extent such compensation is provided by the GoMP.

13. OPERATION AND MAINTENANCE OF DISTRIBUTION ASSETS & DISTRIBUTION SYSTEM

13.1. The Distribution Franchisee shall be solely responsible for undertaking all operations and maintenance related activities in relation to the Distribution Assets, the Distribution Franchisee Assets and the Distribution System in the Franchisee Area, at its own cost. The maintenance of the Distribution Assets, the Distribution Franchisee Assets and the Distribution System shall be carried out as per the Performance Standards prescribed under the Electricity Supply Code, 2004 as in force from time to time, as per the directions/ orders of MPERC and standards as adopted by the Distribution Licensee. Any expenditure incurred by the Distribution Franchisee on repair and maintenance of such Assets shall be treated as operation and maintenance cost of Franchisee. The operation and maintenance related activities shall include:

(i) Maintenance of the transformers and lines to ensure uninterrupted power supply to the Consumer; this would be done over and above the maintenance contracts of the Distribution Licensee if any that may be running even after the Effective Date.

(ii) Replacement of defective Meters within the prescribed time frame as stipulated in Electricity Supply Code, 2004 as in force from time to time.

(iii) Replacement of any failed transformers within the prescribed time frame and maintenance of sufficient rolling stock of transformers and other necessary materials so as to comply with the norms prescribed by MPERC with respect to time and quality.

(iv) Deployment of any standard systems and policies that are mandated by the Electricity Laws and the MPERC.

(v) Providing information to the Engineer-in-charge about the failure or theft of any transformer, within twenty-four (24) hours of the detection of such failure or theft.

(vi) Maintenance and replacement of the Distribution Assets and the Distribution Franchisee Assets in the Franchisee Area within the prescribed time frame as stipulated in Electricity Supply Code including those Distribution Assets for which warranty period is continuing even after the Effective Date. It shall be responsibility of the Distribution Franchisee to avail warranty on such Distribution Assets.

(vii) Operation and maintenance of all 33/11 kV sub-stations, control rooms and transformer stations.

(viii) Installation of metering devices and carrying out Meter reading, monitoring of all feeders and distribution transformers.

(ix) Upgrade, renovate and maintain the existing IT assets and systems as per Prudent Utility Practices and the standards that may be prescribed by MPERC.

13.2. For carrying out maintenance work, if shut down is required on any feeder the Distribution Franchisee shall apply for permit from concerned EHV and/or HV substation. Such permit shall be returned to concerned substation immediately after the work is completed. The Distribution Franchisee shall maintain day to day co-ordination with substation for smooth operation of Distribution System. The Distribution Franchisee shall also ensure that there should not be any adverse effect on the EHV Consumers and power system equipments due to any mal-operation of Distribution System in the Franchised Area.

13.3. If any Major Incident has occurred which affects the Distribution System, the same shall be intimated by the Distribution Franchisee to Engineer-in-charge at the earliest possible time. The Distribution Franchisee shall also submit a detailed report to the Distribution Licensee giving full details of the facts within the knowledge of the Distribution Franchisee regarding the Major Incident and its causes.

13.4. The Distribution Franchisee will provide all reasonable assistance in meeting the Distribution Licensee's performance obligations under all the ongoing contracts as per Article 4.3.1.3 awarded by the Distribution Licensee. However, the Distribution Licensee on its own or at the request of the Distribution Franchisee with sufficient justification and with prior intimation to the Distribution Franchisee may terminate/discontinue any of these contracts.

13.5. However, all the expenditure/claims arising on account of premature termination/cancellation of contracts, at the request of the Distribution Franchisee, will be borne by the Distribution Franchisee. The Distribution Franchisee will also be liable to honor the decisions/orders of the arbitrator/court in respect of such contracts.

13.6. In any part of the Franchisee Area if there is a disruption of electric supply services leading to severe public inconvenience, the Distribution Licensee shall have a right to enter upon and restore electric supply services at the cost and expenses of the Distribution Franchisee.

ARTICLE14. CAPITALINVESTMENT

14.1 The Distribution Franchisee shall mandatorily carryout the following capital works in the Franchisee Area:

Metering: The Distribution Franchisee shall achieve 100% Metering in the Franchisee Area at the Consumer end, and complete metering of all distribution transformers and 11kV feeders within the first two (2) years of the Contract Period, for complete energy accounting as per the standard technical

specifications prepared for R-APDRP projects **(Annexure VI-B).**However, the Distribution Franchisee shall mandatorily achieve 100% metering at the all distribution transformers and 11kV feeders level within first nine (9) month of the Contract Period in the Franchisee Area. For installation of Meters, Meter testing, Meter calibration and Meter reading, the Distribution Franchisee shall follow the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006, as amended from time to time and as applicable to this Agreement. Further, there shall be a joint inspection of the Metering status in the Franchisee Area at periodical intervals.

The expenditure incurred on completion of aforesaid works shall be borne by the Distribution Franchisee and factored into its capital expenditure plan. The Distribution Franchisee shall arrange necessary financing for these capital works.

14.2 The Distribution Licensee shall monitor the mandatory capital investment to be undertaken by the Distribution Franchisee as per Article 14.1 through the Engineer-in-charge/ monitoring cell in the Franchisee Area. In case of non-compliance of the mandatory capital investment by the Distribution Franchisee as per the intermediate and final completion schedules prescribed in Article 14.1, a penalty as calculated below shall be charged from the Distribution Franchisee for each month of delay after the prescribed time limit for intermediate and final completion till such capital works are completed by the Distribution Franchisee. However, the penalty shall not be imposed on the Distribution Franchisee, if the reasons for such delay in the capital works are considered to be beyond the control of the Distribution Franchisee duly accepted and acknowledged by the Engineer-in-charge.

The amount of penalty shall be calculated as:

Amount of monthly penalty = 1.5% * (cost of balance mandatory capital works corresponding to the stage, which the Distribution Franchisee has failed to attain at the prescribed schedule of completion as per the Article 14.1).The aggregate amount of such penalty shall in no event exceed a maximum of fifty percent (50%) of the cost of mandatory capital works balance at the end of the prescribed schedule date as per the Article 14.1.

Further, in case the Distribution Franchisee fails to attain the prescribed intermediate milestone of the mandatory capital works but achieve the final completion schedules as prescribed in Article 14.1, the amount of penalty already paid by the Distribution Franchisee shall be reimbursed by the Distribution Licensee in the subsequent Supplementary Invoice (SI).

Without prejudice to the above, if the Distribution Franchisee fails to complete the balance mandatory capital works within a further period of three (3) months from the prescribed schedule as per the Article 14.1, it shall be an event of default of the Distribution Franchisee as per the provision of the Clause 32.1.1(v) of this agreement.

14.3 The Distribution Franchisee shall under take programme management of all the ongoing contracts and the contracts to be awarded (**Annexure-IV**) for the schemes such as R-APDRP Part-A, R-APDRP Part-B, ADB, RGGVY, Feeder Separation in rural area etc., as the case may be, in the Franchisee Area. For all such capital works in the Franchisee Area, the Distribution Franchisee shall be assigned the same functions and responsibilities as were with the Engineer-in-charge of the Franchisee Area for the relevant contracts immediately before the Effective Date. The Distribution Franchisee shall be responsible for timely implementation of all such projects. The Distribution Franchisee shall also intimate the Distribution Licensee about the progress of works as per the terms of ongoing works contracts. However, the Distribution Licensee on its own or at the request of the Distribution Franchisee, with sufficient justification and prior intimation to the Distribution Franchisee, may

terminate any of these contracts in case of unsatisfactory performance by the contractor. In such case, the Distribution Licensee shall take all reasonable steps to complete the residual works, if necessary.

14.3.1 For ongoing works under R-APDRP Part-B scheme, the Distribution Franchisee shall have the right to review the maintenance part of contract awarded by the Distribution Licensee. It shall be at the discretion of the Distribution Franchisee to continue / terminate the maintenance part of the works contract for R-APDRP Part- B town(s).

14.3.2 The payment obligation related to the maintenance contract for all ongoing contracts as per the Article 4.3.1.3 shall be passed on to the Distribution Franchisee except for that mentioned in Article 18.3.

14.4 The Distribution Franchisee shall submit its proposal within the Transition Period for the entire capital investment on the Distribution System over and above the capital investment mentioned in Article 14.1 for meeting the future load growth, reduction in the AT&C Losses and improvement in the quality of supply in the Franchisee Area. This plan shall be treated as a rolling capital investment plan and would be revised at the option of the Distribution Franchisee at the end of every third (3rd) year. Such investment plan of the Distribution Franchisee shall be submitted to the MPERC by the Distribution Licensee and shall be subject to MPERC's approval. The Distribution Franchisee may revise the capital investment plan, subject to concurrence of the Distribution Licensee and subsequently approval of MPERC. The Distribution Licensee shall facilitate the Distribution Franchisee in approaching the MPERC for approval of such capital investment plan or any revision thereof. However, the decision of MPERC in the matter shall be final and binding on the Distribution Franchisee. Any investment by the Distribution Franchisee which is not approved by the MPERC shall not be compensated by the Distribution Licensee at the Expiry Date and shall be considered to be a business risk of the Distribution Franchisee. Such capital expenditure incurred by the Distribution Franchisee would include replacement of Distribution Assets. The Distribution Franchisee shall arrange the funds required for meeting its capital expenditure and the cost thereof shall be borne by the Distribution Franchisee.

14.5 All the electrical plants and equipments, appliances, Distribution Franchisee Assets, as the case may be, used in the Franchisee Area under the capital expenditure plan under Article 14.1 and 14.4 should be as per the standards provided in the Energy Conservation Act, 2001 and the standards and labeling programmed of Bureau of Energy Efficiency as may be made applicable from time-to-time. The specification of the equipments to be used by the Distribution Franchisee shall be at least at par and not inferior to the standards adopted by the Distribution Licensee.

The Distribution Licensee shall have the right to conduct the inspection, at the Distribution Franchisee's store in the Franchisee Area or at the location of asset installation in the Franchisee Area, as the case maybe, regarding specification of the electrical plants and equipments, appliances, Distribution Franchisee Assets used in the Franchisee Areas on quarterly basis. The Distribution Franchisee shall facilitate such inspection and provide all necessary facilities for carrying out such inspection. During inspection, if any electrical plants and equipments, appliances, Distribution Franchisee Assets is found to be of inferior quality in the absolute judgment of the Distribution Licensee, the Distribution Licensee shall not consider such assets as a part of Distribution Franchisee Assets. Without prejudice to the above, the Distribution Licensee may also direct the Distribution Franchisee to replace such assets within a period of thirty (30) days from the date of inspection. However, in case the Distribution Licensee fails to conduct the inspection, it will not amount to waiver of the inspection.

The Distribution Franchisee shall make available all the documents to the Distribution Licensee related to the procurement including the specifications of the electrical plants and equipments, appliances, Distribution Franchisee Assets, as and when required by the Engineer-in-Charge.

14.6 The Distribution Licensee shall make efforts to complete all ongoing and proposed capital works on the schedule dates on best effort basis as indicated in **Annexure IV**. However, in case of any delay or shortfall in execution of ongoing capital works by the Distribution Licensee, the Distribution Licensee assumes no responsibility for such delay and the Distribution Franchisee shall not be compensated by the Distribution Licensee for any related shortfalls or resultant non-achievement of AT&C Loss targets.

14.7 The Distribution Franchisee shall maintain a separate record for the Distribution Franchisee Assets with all details and specifications as per the provisions of Article 16.3.

14.8 The Distribution Franchisee shall submit details of Distribution Franchisee Assets on a quarterly basis to the Distribution Licensee. The value of the Distribution Franchisee Assets shall be certified by Engineer-in-Charge within a period of ninety (90) days from the submission of details for the relevant quarter.

14.9 On the Expiry Date, the Distribution Franchisee shall transfer forthwith the Distribution Franchisee Assets in working condition, free and clear of all encumbrance and execute such deeds, writing and documents as may be required by the Distribution Licensee for fully and effectively divesting the Distribution Franchisee of all of its rights, title and interest in the Distribution Franchisee Asset and conveying the said Assets to the Distribution Licensee.

14.10 Subject to the Distribution Franchisee complying with the requirement of Article14.7 and as per the provisions of Article 32, on Expiry Date, the Distribution Franchisee shall be entitled to receive the depreciated value of the Distribution Franchisee Assets as determined based on the cost of such assets and the prescribed depreciation rate as per Article 14.11 and provisions of Article 32.4.2. Land acquired by the Distribution Franchisee shall be transferred to the Distribution Licensee at book value on the Expiry Date. All necessary registration charges on transfer of assets and property, as applicable, would be borne by the Distribution Licensee in this regard.

14.11 The book value of the Distribution Franchisee Assets shall be lower of the following:

(i) the applicable schedule of rates of the Distribution Licensee as on the year in which Distribution Franchisee Assets were put to commercial use by the Distribution Franchisee; and

(ii) the original cost of acquisition of the Distribution Franchisee Assets by the Distribution Franchisee;

The depreciation for the Distribution Franchisee Assets shall be worked out on the basis of the depreciation rates approved by the MPERC in its "Determination of tariff for distribution and retail supply of electricity regulation, 2005", as amended from time to time.

In the event the depreciation rate for Distribution Franchisee Assets are not specified in the said MPERC regulations, it shall be taken as per the prevailing depreciation rates of the Distribution Licensee or as per the Companies Act, 1956 in that sequence.

The depreciated value of the Distribution Franchisee Assets at any point of time during the Contract Period shall be determined according to the provisions specified above in this Article.

14.12 The quantum of capital works, except those covered under Article 4.3.1.3, carried out by the Distribution Licensee from the date of issue of NIT till the Effective Date in the Franchisee Area shall be deemed as the capital investment of the Distribution Franchisee. The Distribution Franchisee shall pay for such assets at the actual cost to the Distribution Licensee within Transition Period. However, such payment shall be limited to a maximum value of five percent (5%) of the annual revenue billed to the Consumers net of subsidy for the Base Year in the Franchisee Area;

14.13 If there is any requirement of land (such as for 33/ 11 kV sub-station) for execution of the approved capital investment plan, the following provisions shall apply:

14.13.1 If the proposed land is a government owned land, then the Distribution Licensee shall Endeavour to provide necessary assistance in procuring such land;

14.13.2 If the proposed land is a privately owned land, then such land shall be purchased or taken on lease by the Distribution Franchisee at its own cost.

14.14 The liability and the risk associated with all loans raised by the Distribution Franchisee, such as inability to repay interest and principal, default by the Distribution Franchisee and/or construction delays in works funded by loans taken by the Distribution Franchisee or on account of changes in the regulatory environment would not be passed on to the Distribution Licensee under any circumstance during the Contract Period.

ARTICLE 15. SAFETY NORMS AND ACCIDENTS

15.1 The Distribution Franchisee shall strictly abide by all safety norms and safety measures as prescribed in the Electricity Laws and shall bear all liabilities for payment of compensation to any person on account of electrocution or accident for any reason whatsoever.

ARTICLE 16. ASSET SURVEY & INVENTORY

16.1 In the course of preparation of Distribution Assets Inventory, all the Distribution Assets shall be provided unique numbers for identification; if not given at any place, as per existing practice of the Distribution Licensee and direction of Engineer-in-charge. The hard and soft copy of all data regarding Distribution Assets including drawings shall be handed over to the Engineer-in-charge. Both the Parties shall jointly sign the Distribution Asset Inventory.

16.2 The Distribution Licensee shall provide to the Distribution Franchisee the data base and documents of Consumer indexing and Distribution Asset codes, if available for route sequencing purpose. In case, the Distribution Licensee does not have such database and documents for the Franchisee Area, the Distribution Franchisee in assistance with the Distribution Licensee shall create the same within in the Transition Period as prescribed in Article 4.3.1.1. The expenses incurred in this regard shall be borne by the Distribution Franchisee.

16.3 The Distribution Franchisee shall maintain and update the Franchisee Asset Register and prepare a list of all new Distribution Franchisee Assets put to commercial use after the Effective Date and submit the same to Engineer-in-Charge on quarterly basis in the first year of Contract Period and thereafter on monthly basis during the Term of Agreement. The update shall reflect all additions and replacements made to the Distribution Assets and Distribution Franchisee Assets at the cost of the Distribution Franchisee. In the event that the Engineer-in-charge disagrees with any update submitted by the Distribution Franchisee, he may, within a period of thirty (30) days from the receipt of such update, appoint a representative and call upon the Distribution Franchisee to undertake a joint survey of the Distribution Assets/Distribution Franchisee Assets or any part thereof.

16.4 The Distribution Franchisee shall also prepare a list of all new Distribution Assets capitalized after the Effective Date and submit the same to the Engineer-in-charge on a quarterly basis in the first year of the Contract Period and thereafter on monthly basis during the Term of the Agreement and the same shall be updated by the Distribution Licensee in the Licensee Asset Register. In the event that the Engineer-in-charge disagrees with any update submitted by the Distribution Franchisee, he may, within a period of thirty (30) days from the receipt of such update, appoint a representative and call upon the Distribution Franchisee to undertake a joint survey of such Distribution Assets or any part thereof.

16.5 A joint asset survey shall also be conducted sixty (60) days prior to the Expiry Date.

16.6 The Distribution Franchisee shall execute an indemnity bond as attached in **Annexure V** before taking over such Distribution Assets from the Distribution Licensee and such bond shall be valid till scheduled Expiry Date.

16.7 The Distribution Franchisee shall submit detailed inventory of O&M spares annually in the Franchisee Area.

16.8 Any shortfall in the quantity of Distribution Assets verified and recorded in joint verification at the time of taking over from the Distribution Franchisee from the quantities as recorded in the Licensee Asset Register shall be recovered at the cost of replacement from the Distribution Franchisee.

16.9 If any Distribution Asset and/or Distribution Franchisee Asset are scrapped during the Contract Period, the same shall be deposited in the Distribution Franchisee's store in the Franchisee Area by the Distribution Franchisee at its own cost under intimation to the Engineer-in-Charge. After the joint verification by the Engineer-in-charge and the Franchisee Representative, if it is established that the scrap relates to Distribution Assets, the same shall be transferred to the Distribution Licensee's store by the Distribution Franchisee at the cost of the Distribution Franchisee within a period of thirty (30) days from the date of joint verification. The Distribution Licensee shall duly update the Licensee Asset Register accordingly.

16.10 The Distribution Franchisee shall not use the Distribution Assets for any other purpose except for Distribution of electricity in the Franchisee Area and activities related thereto.

16.11 **Theft and Loss of Distribution Assets and Distribution Franchisee Assets**

Notwithstanding anything to the contrary contained in the Distribution Franchisee Agreement, the Distribution Franchisee shall be solely liable for any theft or otherwise loss of any Distribution Assets and Distribution Franchisee Asset, and shall replace the same with a new asset of atleast the same standards and specification of the asset lost entirely at its own cost; the assets so created shall form a part of Distribution Assets and Distribution Franchisee Assets respectively. However for the calculation of depreciated value at the Expiry Period the value of original Distribution Franchisee Assets shall be considered. If any Distribution Assets/ Distribution Franchisee Assets are recovered after theft, it shall be the property of the Distribution Franchisee.

ARTICLE17.MIS AND IT SUPPORT AND REPORTING

17.1 The Distribution Franchisee shall maintain the following data and records and submit to Engineer-in-Charge as per the time schedule specified herein.

17.1.1 R-15 format (revenue return) and/or Consumer billing database with all revenue related formats before 20th of every month;

17.1.2 Data with respect to the Franchisee Area as per format provided by MPERC or the Distribution Licensee to enable the Distribution Licensee to obtain approval of Annual Revenue Requirement petition from MPERC. The requisite data shall be made available within fifteen (15) days of intimation forwarded to the Distribution Franchisee by the Engineer-in-Charge;

17.1.3 Separate individual details for each Consumer under each Consumer category and details of amount billed and collected inclusive of electricity duty and cess for electricity supplied from the Effective Date furnished every month in softcopy;

17.1.4 List of Consumers as on Expiry Date in soft copy;

17.1.5 Detailed records of new connections including temporary connections given in the Franchisee Area during the month furnished every month in both soft and hard copy;

17.1.6 Information on status of Consumers who have been disconnected after the Effective Date in the Franchisee Area, furnished every month both in soft and hard copy. Further, there shall be a joint inspection of such Disconnected Consumers at such intervals as per the methodology to be decided jointly by both the Parties;

17.1.7 Monthly MIS of Consumer Complaints and action taken thereon, which shall be prepared and submitted in accordance with the prevailing practice of the Distribution Licensee.

17.1.8 Consumer-wise billing details in respect of metered and unmetered Consumers billed on assessment basis during the month.

17.1.9 Feeder-wise daily supply hours maintained in the Franchisee Area on monthly basis.

17.2 Report on Energy Audit with respect to each feeder on a monthly basis and corresponding distribution transformer on quarterly basis;

17.3 In addition to the specific records and data required to be maintained in terms of Article 17.1, the Distribution Franchisee shall continue to maintain and update all other records and databases in respect of the Franchisee Area in the same format as maintained by the Distribution Licensee or in any other format developed with the mutual consent of both the Parties.

17.4 The Distribution Franchisee shall provide sufficient number of computers and employ adequate number of persons who can operate computers to provide data in compatible format to meet MIS reporting requirements of the Distribution Licensee or any Government Instrumentality or for any other purposes as per the prescribed formats.

17.5 The Distribution Licensee and the Distribution Franchisee shall undertake monthly review and reconciliation of accounts and statistics of the Franchisee Area. The reconciliation figures shall be acknowledged and signed by both Parties and shall make efforts to get un-reconciled figures duly reconciled or settled in an agreed period, in any case within the next three (3) months.

17.6 All correspondence, records, reports, presentations and other forms of information developed by the Distribution Franchisee whether electronic or physical, hardware and software, as required by the Distribution Licensee shall become the property of the Distribution Licensee on Expiry Date. The Distribution Licensee reserves, without limitation, the right to use procedures, forms and productivity enhancement methods developed by the Distribution Franchisee pursuant to the provisions under the DFA. Notwithstanding the above, the Distribution Franchisee shall have the right to retain copies of information, reports, correspondence, presentations mentioned above.

17.7 The Distribution Franchisee shall provide to the Distribution Licensee within reasonable time such further particulars and information as may be required by the Distribution Licensee from time to time relating to implementation of the DFA or for providing the same to GoMP or any other statutory authorities under the provisions of the Law.

ARTICLE 18. USE OF DISTRIBUTION LICENSEE FACILITIES

18.1 Buildings:

18.1.1 The Distribution Franchisee may request for use of the buildings belonging to the Distribution Licensee in the Franchisee Area during the Term of Agreement. The Distribution Licensee may permit the use of this facility, but the Distribution Franchisee shall be responsible for paying municipal taxes and all other taxes applicable and shall incur expenditure on regular maintenance of these buildings. If any of the office premises and land has been taken over by the Distribution Franchisee for its use and if such office premises or land was taken by the Distribution Licensee on rent; in such cases the Distribution Franchisee shall get the lease agreement transferred in its own name with effect from the Effective Date and bear all costs in connection therewith. Subsequent rent payment shall accordingly be made by the Distribution Franchisee. The Distribution Licensee shall terminate all such lease agreements from the Effective Date.

18.1.2 All charges for telephone, water, electricity etc. paid by the Distribution Licensee, will be borne by the Distribution Franchisee, in respect of premises taken over by the Distribution Franchisee under Article 18.1. The buildings and such other assets shall be provided to the Distribution Franchisee exclusively for the purpose of the implementation of the Distribution Franchisee Agreement and shall not be used for any other purpose. All buildings made available to the Distribution Franchisee shall be vacated within three (3) months of Expiry Date or such additional period agreed by the Distribution Licensee. Fulfillment of this condition shall be a condition precedent for the release of Performance Security.

18.1.3 The Distribution Franchisee shall be held responsible for the safety and security of the premises and other material kept within the premises. For any damage or theft, the Distribution Franchisees hall replace the same at its own cost.

18.2 The collection counters of the Distribution Licensee shall be continued up to a period mutually agreed by the Parties during the Transition Period. The electricity and other charges of such collection counters shall be borne by the Distribution Franchisee. In case the collection counter is running in a rented building, the Distribution Franchisee shall also pay rent from the Effective Date.

18.3 If the Distribution Franchisee uses the Distribution Licensee's billing software for billing the Consumers, the user license fee and the annual maintenance charges for maintenance of the billing software, if any, shall continue to be borne by the Distribution Licensee.

ARTICLE 19. LOSS REDUCTION

19.1 **AT&C Loss reduction targets**

19.1.1 For the areas other than R-APDRP Towns, the following AT&C Loss reduction targets would be applicable to the Distribution Franchisee:

(i) AT&C Losses above 40%:Reduction by 4% per year.
(ii) AT&C Losses above 30% but up to 40%: Reduction by 3% per year.

(iii) AT&C Losses above 20% but up to 30%: Reduction by 2% per year.
(iv) AT&C Losses below 20%: Reduction by 1% per year.

The targets will change from one slab to another on shifting of the AT&C Losses from one level to another level. The starting reference for AT&C Losses for the first year of the Contract Period for the purpose of reduction of AT&C Losses under this Article shall be the AT&C Losses of the Base Year.

For the purposes of Article 19.1.1, the year shall be considered as financial year;

In case the Effective Date is not the starting date of a financial year, the first assessment of AT&C Loss reduction target w.r.t. the AT&C Loss level of Base Year shall be done at the end of the financial year immediately following the financial year in which the Effective Date falls. For the period starting from the Effective Date till the end of the immediate following financial year the AT&C Loss reduction target shall be computed on pro rata basis. This pro-rated target shall be added with the target for the next financial year to determine the target to be achieved by the Distribution Franchisee at the first assessment date. A sample illustration for the computation of AT&C Loss level is attached as **Annexure-IX.**

19.1.2 **For Town areas under R-APDRP:**

(i) For town(s) areas under R-APDRP scheme (namely Ujjain City, Nagda, Badnagar), the Distribution Franchisee shall be responsible to achieve a target of fifteen percent (15%) AT&C Loss level on sustainable basis as per the provisions of the "Guidelines of R-APDRP" **(Annexure VI-A)** issued by Ministry of Power, Government of India on or before December 2013.
(ii) The Distribution Franchisee shall also maintain the annual AT&C Loss level of R-APDRP town(s) within fifteen percent (15%) limit after the conclusion of R-APDRP scheme.

19.2 The measurement and calculation of the AT&C Losses shall be carried out on annual basis in the following manner:

(i) Effective from the date mentioned in Article 19.1.1, at the end of every year, on the basis of the Input Energy, the Engineer-in-charge shall calculate the AT&C Loss level in the Distribution System of the Franchisee Area("AnnualAT&C Loss Level") and intimate the same to the Franchisee in writing;
(ii) In case the Distribution Franchisee Disputes the annual AT&C Loss Level intimated by the Engineer-in-charge for any year, it shall, within ten (10) days of the receipt of such information, seek a joint review. Further, if the Parties are unable to agree on the annual AT&C Loss Level on the basis of the joint review, the Distribution Franchisee may seek a review by the Engineer-in-Charge followed by Head of Commercial Department of the Distribution Licensee whose decision shall be final and binding on both the Parties.

19.3 **Incentive and penalty on AT&C Loss reduction targets**

19.3.1 **For the areas other than R-APDRP Towns:**

If the Distribution Franchisee fails to achieve the AT&C Loss reduction targets as specified in Article 19.1.1, without prejudice to other actions which the Distribution Licensee may initiate

against the Distribution Franchisee, under the Distribution Franchisee Agreement, a penalty equivalent to ten percent (10%) of the cash lost due to non-achievement of the target shall be recoverable from the Distribution Franchisee as per the following methodology.

For example, if the amount actually collected by the Distribution Franchisee from the Consumers in the Franchisee Area on the basis of say 30% AT&C Losses at the end of second year from the Effective Date is Rs.100/-, then the amount which should have been collected at 15% AT&C Losses would be calculated as 100x0.85/(1-0.30). Say Rs.121/-;Accordingly, the cash lost is Rs.121-Rs.100 = Rs.21/-. Therefore, the penalty to be paid would be 10% of Rs.21/- i.e. Rs.2.1, which is recoverable from the Franchisee through Supplementary Invoice (SI) as per Article 9.2.

19.3.2 **For Town areas under R-APDRP:**

(i) If the Distribution Franchisee achieves the AT&C Loss reduction targets for R-APDRP town(s) as specified in Article 19.1.2(i), ten percent (10%) of the quantum of loan converted into grant as per the provisions of R-APDRP guidelines, shall be passed on to the Distribution Franchisee as an incentive.

(ii) In case the Distribution Franchisee fails to achieve the AT&C Loss reduction targets for R-APDRP town(s) as specified in Article 19.1.2(i) on sustainable basis, the incentive/ penalty for the Distribution Franchisee shall be calculated as below:

- An amount equal to ten percent (10%) of the quantum of loan converted into grant as per the provisions of R-APDRP guidelines;
- **LESS**an amount equal to twenty percent (20%) of the loan not converted into grant for the same year as per the provisions of R-APDRP guidelines;

(iii) Further, in case the Distribution Franchisee fails to maintain the annual AT&C Loss level of fifteen percent (15%) for R-APDRP town(s) as specified in Article 19.1.2(ii), a penalty equivalent to ten percent (10%) of the revenue lost due to not maintaining the AT&C Loss at fifteen percent (15%) shall be recoverable from the distribution franchisee.

Such incentive/ penalty shall be adjusted as per Article 9.2through Supplementary Invoice (SI) in the year following the financial year for which the performance is being evaluated for R-APDRP town(s).

19.3.3 For the purpose of calculation of AT&C Loss level, if the value of collection efficiency for any financial year or part thereof during the Contract Period is more than one hundred percent (100%), in such cases, collection efficiency shall be restricted to 100% (one hundred percent).

ARTICLE 20.PROVISION FOR SUBSIDY AND FREE ELECTRICITY

20.1 GoMP may, at its sole discretion decide on, Subsidy in electricity tariff payable by Consumers of certain categories. The billed demand by the Distribution Franchisee to the Consumers shall be the amount payable by the Consumers net of applicable government Subsidy and compensation against free electricity supply. However, any Subsidy including any compensation for free supply offered by GoMP or any Government Instrumentality from time-to-time to any category of Consumers shall continue to be retained by the Distribution Licensee.

20.2 The Distribution Franchisee shall facilitate the Distribution Licensee in raising the claim on account of Subsidy and free electricity receivable from GoMP for the Franchisee Area. The notification from Govt. of Madhya Pradesh on Subsidy for the Base Year is attached as **Annexure VII**.

20.3 The Distribution Franchisee shall submit the statement of Subsidy and free electricity claims with detailed records of the Consumers eligible for Subsidy on electricity tariff or free electricity after verifying the accuracy and admissibility of each Consumer included in the same.

20.4 An Independent Auditor shall audit the claim for Subsidy and free electricity on a quarterly basis as submitted under Article 20.3 above. The fees and associated expenditure for such audit shall be equally shared by both the Parties. Notwithstanding the above, the Distribution Franchisee shall allow the government auditors or any other authority from GoMP to verify the particulars or details provided for determining the Distribution Licensee's claim for Subsidy and free electricity.

ARTICLE 21.ELECTRICITY DUTY

21.1 Electricity duty and cess shall be payable by the Distribution Franchisee as per the amount reflected in the R-15 format for relevant month directly to the GoMP. Any change in the rates or its applicability notified by GoMP after the Effective Date shall be applicable for the purpose of making payments towards electricity duty and cess. Further, the Distribution Franchisee shall submit the documentary evidence in support of the payment made towards electricity duty and cess to the Distribution Licensee. In the event the electricity duty and cess or part thereof remains unpaid by the Distribution Franchisee to the GoMP within stipulated time period, the Distribution Licensee shall invoke the Performance Security furnished by the Distribution Franchisee.

21.2 The Distribution Franchisee shall maintain separate accounting records for electricity duty as per the Madhya Pradesh Electricity Duty Act 1995 and amendments thereof from time to time. An Independent Auditor shall audit the electricity duty and cess collection from the Consumers every year. The fees and associated expenditure for such audit shall be equally shared by the Distribution Franchisee and the Distribution Licensee.

21.3 Notwithstanding the above, the Distribution Franchisee shall allow the government auditors and any other authority from GoMP to verify the records maintained by the Distribution Franchisee for collection and payment of electricity duty and cess. The amount of electricity duty and cess determined by the government auditor or any Government Instrumentality shall be final and binding on both the Parties.

ARTICLE 22. INVENTORY OF O&M SPARES

22.1 The Distribution Franchisee shall have the option to take-over, either in full or in part, the inventory of O&M spares available in the Franchisee Area as on the Effective Date as prepared in terms of the Article 4.3.1.2. Based on the option exercised, the Distribution Franchisee shall be liable to make the payment for the cost of the inventory of the O&M spares actually taken over. The cost of such inventory shall be determined based on the Store Issue Rate of the Distribution Licensee. In the event, the Distribution Franchisee takes-over only part of the inventory of O&M spares, the part not taken over by the Distribution Franchisee shall remain with the Distribution Licensee and it may deal with such inventory in the manner deemed fit.

22.2 The Distribution Licensee shall provide to the Distribution Franchisee O&M spares free of cost to the extent required for the operation and maintenance of the Distribution System for atleast one (1) month requirement as specified in **Annexure VIII.**

22.3 On the Expiry Date, the Distribution Licensee shall have the option to take-over either in full or in part, the inventory of O&M spares available in the Franchisee Area as on the Expiry Date. Based on the option exercised, the Distribution Licensee shall be liable to make payment for the cost of the inventory of the O&M spares actually taken over. The cost of such inventory shall be determined based on the cost appearing in the books of account of the Distribution Franchisee. In the event, the Distribution Licensee takes-over only part of the inventory of O&M spares, the part not taken over by the Distribution Licensee shall be removed by the Distribution Franchisee from the Franchisee Area at its own cost within a period of thirty (30) days after the Expiry Date.

ARTICLE 23.PERFORMANCE SECURITY

23.1 The Distribution Franchisee shall, in order to secure the performance of its obligations under the Distribution Franchisee Agreement, submit and maintain validity of the Performance Security during the Term of Agreement, to the satisfaction of the Distribution Licensee in the form of revolving, irrevocable and un-conditional Letter of Credit (IRLC) from any nationalized bank for an amount equal to the sum of the followings:

23.1.1 Two and half (2.5) months' estimated amount payable to the Distribution Licensee by the Distribution Franchisee based on the Minimum Input Energy committed by the Distribution Licensee calculated at Input Rate for the first year of Contract Period as per the provisions of the DFA, and

23.1.2 Two and half (2.5) times the amount of average monthly electricity duty and cess billed by the Distribution Licensee in the Base Year for the Franchisee Area;

All charges related to the Letter of Credit shall be borne by the Distribution Franchisee.

23.2 The Letter of Credit shall be initially valid for twelve (12) months from the date of its issue. The Distribution Franchisee shall renew and submit the Letter of Credit every year for a further period of twelve (12) months at least thirty (30) days before its expiry, failing which the Distribution Licensee shall have the right to invoke the Letter of Credit.

23.3 The amount of the Performance Security shall be revised to an amount equal to sum of the followings:

23.3.1 Two and half (2.5) months' billed amount based on the average of the immediately preceding eleven (11) months' billing consisting of Monthly Invoice and Supplementary Invoice raised by the Distribution Licensee, and

23.3.2 Two and half (2.5) times the amount of average monthly electricity duty and cess billed by the Distribution Franchisee in the immediately preceding eleven (11) months in the Franchisee Area;

However, under no circumstances the amount of Letter of Credit shall be revised downwards from the earlier amount of the Letter of Credit.

23.4 In case of any breach of the terms and conditions of the Distribution Franchisee Agreement, the Distribution Licensee shall be entitled, at any time to forfeit or draw from the amount of Performance Security in full or in part thereof, at its sole discretion.

23.5 The Distribution Licensee shall have the right to recover the outstanding payment, if any, after payment Due Date, as per the provision of Article 10.3, by invoking the Performance Security.

23.6 The Distribution Franchisee shall within ten (10) days of drawl from the Letter of Credit by the Distribution Licensee restore the value of Letter of Credit to the amount existing as on the date prior to such drawl.

23.7 The Performance Security shall be kept valid for a period of ninety (90) days beyond the Expiry Date.

ARTICLE 24.DISTRIBUTION LICENSEE EMPLOYEES

24.1 During the period of first three (3) months from the Effective Date, the Distribution Licensee shall have the option to permit all existing employees of the Distribution Licensee working in the Franchisee Area to continue to work in the Franchisee Area. During this period the Distribution Licensee shall bear the liability for the payment of all salaries and other employee related expenses, for such employees. Thereafter, on the request of the Distribution Franchisee, the Distribution Licensee shall make available such number of its employees from the Franchisee Area, who are willing to work with the Distribution Franchisee, for such further period as considered appropriate, on deemed deputation basis as per terms and conditions of deputation applicable to the employees of the Distribution Licensee. During deputation period the entire cost of employees shall be paid directly by the Distribution Franchisee to the Distribution Licensee's employees on the last Business Day of every month.

24.2 Employees on deemed deputation with the Distribution Franchisee will have an option to revert back to the Distribution Licensee at any time on giving one (1) month notice to the Distribution Franchisee with copy to Engineer-in-charge. In case the services of employees working with the Distribution Franchisee are required by the Distribution Licensee it shall also have the right to recall the employees prior to the completion of deputation period, by serving notice of one (1) month to the Distribution Franchisee.

24.3 The Distribution Franchisee shall have the right to directly employ any number of personnel on its terms and conditions (Franchisee's Employees) to discharge day-to-day functions relating to Distribution of electricity in the Franchisee Area. The list of employees employed by the Distribution Franchisee shall be submitted to the Engineer-in-charge.

24.4 Any person or agency directly or indirectly employed or engaged by the Distribution Franchisee shall not be an employee of the Distribution Licensee at any point of time during the Term of Agreement or after Expiry Date.

24.5 The Distribution Franchisee shall contribute towards the terminal liabilities of the Distribution Licensee's employees on deputation with the Distribution Franchisee, corresponding to the period of service rendered during deputation with the Distribution Franchisee for an amount equivalent to Twenty Seven point Four Five percent (27.45%) of the sum of Basic pay, Grade Pay and Dearness Allowance of such employees.

24.6 The Distribution Franchisee shall be bound to comply with the provisions of the Minimum Wages Act 1948, Employees Provident Fund and Misc. Provision Act 1952, Workmen's Compensation Act 1923, Madhya Pradesh Industrial Relation (MPIR) Act, Industrial Disputes Act 1947, Payment of Wages Act 1935 or any other statutory provisions applicable to an employer from time to time.

24.7 In case of any accident or legal proceedings between the Distribution Franchisee and any person or agency employed by the Distribution Franchisee, directly or indirectly, it shall not become the liability of the Distribution Licensee during the Term of Agreement or after Expiry Date.

ARTICLE 25. ACKNOWLEDGMENT OF DISTRIBUTION FRANCHISEE

25.1 The Distribution Franchisee acknowledges and accepts that

25.1.1 it has found the Franchisee Area suitable for carrying on the activities under the DFA and has carried out its due diligence.

25.1.2 prior to execution of the DFA, it has made a careful and complete examination as well as independent evaluation of responsibilities and obligations under the DFA and has determined to its satisfaction the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it, in the course of performance of its obligations hereunder.

25.1.3 in relation to the risk of inadequacy, mistake or error in or relating to any of the matters set forth in Article 27the Distribution Franchisee hereby confirms thatthe Distribution Licensee shall not be liable for the same in any manner whatsoever to the Distribution Franchisee.

25.1.4 by its very nature of the Project it is not possible for the Distribution Licensee to know or otherwise make available to the Distribution Franchisee all the details and information and there may be facts, figures, circumstances which the Distribution Franchisee may come to know in future. The Distribution Franchisee has agreed to accept the same as a part of the ongoing business taken over by him under the DFA and shall not have any claim against the Distribution Licensee in regard to the same.

25.1.5 the Distribution and supply of electricity in the Franchisee Area have to be undertaken as per the norms, regulations, codes, standards, orders, directives and other performance parameters laid down by the MPERC from time to time or otherwise applicable including those forming part of licensing conditions as per Section 16 of the Electricity Act, 2003 and that the MPERC is the statutory authority to decide on the above aspects and the decision of the MPERC shall be final and binding. Accordingly the Distribution Franchisee acknowledges that it shall duly fulfill and comply with all such norms, regulations, codes, standards, orders, directives and other performance parameters in discharging its obligations as the Distribution Franchisee is required to.

ARTICLE 26. AUDIT AND INSPECTION

26.1 The Independent Auditors shall audit and inspect all records and statements relating to Distribution Assets and Distribution Franchisee Assets as per terms of reference. The Independent Auditor shall prepare its report ("Inspection Report") and send a copy of its Inspection Report to the Distribution Licensee's Head quarter, Engineer-in-charge and the Distribution Franchisee.

26.2 The Distribution Franchisee shall within twenty one (21) days of the receipt of the Inspection Report, remedy the defects and deficiencies, if any, set forth in such Inspection Report and submit its compliance in respect thereof to the relevant Independent Auditor, the Engineer-in-Charge and Head of Commercial Department of the Distribution Licensee.

26.3 The terms of reference for the Independent Auditors shall be as decided by the Distribution Licensee from time to time under advice to the Distribution Franchisee. The Distribution Licensee reserves the right to modify the terms of reference of the Independent Auditor at any time.

26.4 The Distribution Franchisee shall furnish all records and extend full cooperation to the Independent Auditors to complete the assignment as per the terms of reference. The Distribution Franchisee shall comply with all reporting formats and data requirements prescribed by the Independent Auditors.

26.5 The fees and associated expenditure of the Independent Auditors shall be equally shared by the Distribution Franchisee and the Distribution Licensee.

26.6 Notwithstanding the audit and inspection by the Independent Auditor, the Distribution Licensee may at any time during the Term of the Agreement authorize an officer or a team of officers to inspect, verify and audit the required data and records for the purpose of verifying information received from the Franchisee under the provisions of this Agreement. The Distribution Franchisee shall be obliged to extend full cooperation, assistance and facilities as may be required by such officer or team of officers.

26.7 The Distribution Licensee reserves the right to conduct physical verification of the Distribution Assets at any time during the Contract Period by persons duly authorized for this purpose.

ARTICLE 27. REPRESENTATION AND WARRANTIES

27.1 **Representations and Warranties of the Distribution Franchisee**

The Distribution Franchisee acknowledges and accepts that it has the obligation to undertake activities of the Distribution and retail supply of electricity in the Franchisee Area in the same manner as the Distribution Licensee is required under the provisions of the Electricity Laws and the Distribution Franchisee agrees to indemnify and hold harmless the Distribution Licensee in respect of such obligation to be discharged by the Distribution Franchisee.

The Franchisee represents and warrants to the Distribution Licensee that:

(i) It is duly organized, validly existing under the Laws of the jurisdiction of its incorporation;
(ii) It has full power and authority to execute, deliver and perform its obligations under the DFA and to carry out the transactions contemplated hereby;
(iii) It has taken all necessary corporate and other actions under the Law and its constitutional documents to authorize the execution, delivery and performance of the DFA;
(iv) The DFA constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
(v) It is subject to civil and commercial Laws of India with respect to the DFA and it hereby expressly and irrevocably waives any immunity in any jurisdiction in respect thereof;
(vi) All the information furnished in the Bid (annexed as **Annexure -I** to this Agreement), is true and correct as on the Effective Date.

(vii) The execution, delivery and performance of the DFA will not conflict with, result in the breach of, constitute a default under any of the terms of the Memorandum and Articles of Association of the Distribution Franchisee or any Law or any covenant, agreement, understanding, decree or order to which, it is a Party or by which it or any of its properties or assets are bound or affected;

(viii) There are no actions, suits, proceedings, or investigations pending or, to the Distribution Franchisee's knowledge, threatened against it at Law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of or constitute a default of the Distribution Franchisee under the DFA or which individually or in the aggregate may result in any Material Adverse Effect on its business, properties or assets or its condition, financial or otherwise, or in any impairment of its ability to perform its obligations and duties under the DFA;

(ix) It has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Governmental Instrumentality which may result in any Material Adverse Effect or impairment of the Franchisee's ability to perform its obligations and duties under this Agreement;

(x) It has complied with all Laws and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have Material Adverse Effect on its financial condition or its ability to perform its obligations and duties under the DFA;

(xi) The Distribution Franchisee is duly authorised under the Laws of the jurisdiction of its incorporation and has full power and authority to consent and has validly consented to and requested the Distribution Licensee to enter into this Agreement pursuant to its Memorandum and Articles of Association and has agreed to and unconditionally accepted the terms and conditions set forth in the DFA;

(xii) No representation or warranty contained herein or in any other document furnished by it to the Distribution Licensee, contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading; and

(xiii) The Distribution Franchisee warrants that no sums, in cash or kind, have been paid or will be paid by or on behalf of it, to any person by way of commission or otherwise for securing the DFA or entering into the DFA or for influencing or attempting to influence any officer or employee of the Distribution Licensee and GoMP in connection therewith.

27.2 **Representations and Warranties of the Distribution Licensee**

The Distribution Licensee represents and warrants to the Distribution Franchisee that:

(i) It is duly organized, validly existing under the Laws of the jurisdiction of its incorporation;

(ii) It has full power and authority to execute, deliver and perform its obligations under the DFA and to carry out the transactions contemplated hereby;

(iii) It has taken all necessary corporate and other actions under the Law and its constitutional documents to authorize the execution, delivery and performance of the DFA;

(iv) The DFA constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;

(v) It is subject to civil and commercial Laws of India with respect to the DFA and it hereby expressly and irrevocably waives any immunity in any jurisdiction in respect thereof;

(vi) The execution, delivery and performance of the DFA will not conflict with, result in the breach of, constitute a default under any of the terms of the Memorandum and Articles of Association of the Distribution Licensee or any Law or any covenant, agreement, understanding, decree or order to which, it is a Party or by which it or any of its properties or assets are bound or affected;

(vii) There are no actions, suits, proceedings, or investigations pending or, to the Distribution Licensee's knowledge, threatened against it at Law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of or constitute a default of the Distribution Licensee under the DFA or which individually or in the aggregate may result in any Material Adverse Effect on its business, properties or assets or its condition, financial or otherwise, or in any impairment of its ability to perform its obligations and duties under the DFA;

(viii) It has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Governmental Instrumentality which may result in any Material Adverse Effect or impairment of the Distribution Licensee's ability to perform its obligations and duties under this Agreement;

(ix) It has complied with all Laws and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have Material Adverse Effect on its financial condition or its ability to perform its obligations and duties under the DFA;

(x) The Distribution Licensee is duly authorised under the Laws of the jurisdiction of its incorporation and has full power and authority to consent and has validly consented to and requested the Distribution Franchisee to enter into this Agreement pursuant to its Memorandum and Articles of Association and has agreed to and unconditionally accepted the terms and conditions set forth in the DFA;

(xi) No representation or warranty contained herein, contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading; and

27.3 The failure of either Party to comply with the Representations and Warranties herein contained shall constitute breach of the DFA.

ARTICLE 28. FORCE MAJEURE

28.1 No Party shall be liable to the other Party if, and to the extent, that the performance or delay in performance of any of its obligations under this Agreement is prevented, restricted, delayed or interfered with due to occurrence of any event of Force Majeure.

28.2 Without limiting to the generality of the definition of Force Majeure, the following shall be treated as Force Majeure: acts of God, war, riots, embargoes, industry-wide strikes, the reduction in supply due to outage of generation facilities / transmission lines or any other causes, circumstances, or contingencies, whether of a similar or dissimilar nature to the foregoing, beyond the Parties' control, which cannot be reasonably forecast or prevented, thereby, hindering the performance by the Parties of any of their obligations hereunder.

28.3 The Party claiming an event of Force Majeure shall promptly notify the other Party in writing, and provide full particulars of the cause or event and the date of first occurrence thereof as soon as possible after the event and also keep the other Party informed of any further developments. The Party

so affected shall use its best efforts to remove the cause of non-performance, and the Parties shall resume performance hereunder with the utmost dispatch when such cause is removed. For the purpose of clarity, the Parties agree that the failure of a Party to adhere to any statutory or regulatory requirement or to obtain necessary approvals shall not be deemed to be a Force Majeure event. A condition of Force Majeure shall not relieve any Party of any obligation due under this Agreement prior to the event of Force Majeure.

In the event of a prolonged event of Force Majeure (continuing for a period of more than 180 days) a final notice of Termination may be issued by either Party leading to the Termination of the Agreement.

ARTICLE 29. INSURANCE

29.1 The Distribution Franchisee at its own discretion shall keep the Distribution Assets and the Distribution Franchisee Assets fully insured against any loss or damage at its own cost. However, insurances required under the Laws of India shall be obtained by the Distribution Franchisee and kept in effect till Expiry Date.

29.2 All insurances obtained or caused to be obtained by the Distribution Franchisee in accordance with Article 29.1 shall be maintained with insurers/ re-insurers and on terms consistent with industry best practices and the Distribution Franchisee shall furnish to the Distribution Licensee copies of certificates of insurance, copies of the insurance policies signed by an authorized representative of the insurer and copies of all premium payment receipts. Insurances will not be cancelled, changed until the expiration of at least forty five (45) days after written notice of such cancellation; change has been received by the Distribution Licensee.

29.3 The Distribution Franchisee shall apply the proceeds from all insurance claims, for any necessary repair, reconstruction, reinstatement, replacement, improvement, or installation of the relevantDistribution Franchisee Assets.

ARTICLE 30. ASSIGNMENTS, CHARGES AND SUB-CONTRACTING

30.1 The Distribution Franchisee shall not assign or sub-let any of its rights or obligations under the Distribution Franchisee Agreement.

30.2 The Distribution Franchisee shall neither create nor permit to subsist any encumbrance over or otherwise transfer or dispose of all or any of the Distribution Assets.

30.3 The Distribution Franchisee shall not in any way transfer, sell, dispose off, mortgage or sub- let any Distribution Assets transferred to it after the Effective Date.

30.4 Notwithstanding anything to the contrary contained in the DFA, the Distribution Licensee may assign any of its rights, benefits and obligations under the DFA pursuant to any direction of MPERC or by operation of Law or in the course of its business in the Project or otherwise as the Distribution Licensee may deem fit.

30.5 The Distribution Franchisee may, however with prior intimation to the Distribution Licensee engage a sub-contractor to carry out any of its activities such as metering, billing and collection, provided the Distribution Franchisee shall continue to remain liable to the Distribution Licensee for the discharge of all its obligations under the DFA including the performance by such sub contractors for the services

outsourced and any default / breach of any of the terms and conditions of the DFA by any such sub-contractors shall be deemed to be a default / breach of the Distribution Franchisee.

30.6 The Distribution Franchisee may create charge on Distribution Franchisee Assets and its gross margin i.e., the revenue realizations less the amount payable to the Distribution Licensee for the Input Energy and dues of electricity duty and cess. Notwithstanding the foregoing, the repayment obligations in all cases shall lie with the Distribution Franchisee.

ARTICLE 31.EQUITY LOCK-IN

31.1 The aggregate equity share holding of M/s……[*Insert the name of Selected Bidder*] in the Distribution Franchisee shall not be less than the following …….[*insert either (a) or (b) as applicable*]

a) Fifty one percent (51%) up to a period of five (5) years from the Effective Date in case of Lead Member of a consortium; or

b) Seventy six percent (76%) upto the period of three (3) years from the Effective Date and Fifty One percent (51%) upto the period of two (2) years thereafter if the Selected Bidder is Bidding Company.

The equity holding can further be diluted upto twenty six percent (26%) after the fifth anniversary of the Effective Date.

Provided that the M/s ……[*Insert the name of Lead Member, in case the Selected Bidder is a Bidding Consortium or Bidding Company*], as the case may be, if investing in the equity of the Distribution Franchisee through Affiliate(s), such restriction as specified above shall apply to such Affiliates.

31.2 Any Member of the Consortium other than the Lead Member shall hold equity in the Distribution Franchisee not less than twenty percent (20%) of the equity capital of the Distribution Franchisee up to a period of five (5) years from the Effective Date and not less than ten percent (10%) of the equity capital of the Distribution Franchisee thereafter till the Expiry Date. The Distribution Franchisee after a period of five (5) years from the Effective Date may however induct any new equity holder or replace an existing Member (except Lead Member) with a new equity holder with the condition that the newly inducted equity holder holds a minimum of ten percent (10%) of the total equity of the Distribution Franchisee during the remaining Contract Period and the total number of the equity holders in the Distribution Franchisee does not exceed three (3) at any time during the Contract Period. The induction or replacement of equity holder other than the Lead Member shall be permitted only twice during the Contract Period.

31.3 The provisions contained in Article 31.2 regarding equity holding in the Distribution Franchisee shall also be applicable in case the Selected Bidder is a Bidding Company in so far as the provisions relate to number of equity holders, the minimum equity holding by each Member, the period of equity holding and induction or replacement of new equity investors.

31.4 Equity contributions by all the Members of the Bidding Consortium including the Lead Member in the Distribution Franchisee should add up to one hundred percent (100%) of the equity capital of the Distribution Franchisee.

31.5 Subject to Article 31.1, 31.2 and 31.3, all transfer(s) of shareholding of the Distribution Franchiseeby any of the entities referred to in this Article, shall be after prior written permission from the Distribution Licensee.

31.6 The provisions as contained in this Article shall override the terms of the Consortium Agreement submitted as part of the Bid.

ARTICLE 32. EVENTS OF DEFAULT AND TERMINATION

32.1 **Event of default**

32.1.1 **Distribution Franchisee's events of default:**

The occurrence and continuation of any of the following events, unless any such event occurs as a result of a Force Majeure event or a breach by the Distribution Licensee of its obligations under this Agreement, shall constitute a the Distribution Franchisee event of default. Further, in the case of the Distribution Franchisee event of default as mentioned in this Article, the Distribution Licensee shall have the option and not an obligation to terminate the Agreement as per the provisions of this Agreement. Any of the following events shall constitute the Distribution Franchisee's event of default, if the Distribution Franchisee,

(i) fails to pay any amount(s) exceeding Rs. Fifty lakh (50,00,000) as and when the same become due to the Distribution Licensee in accordance with the DFA;

(ii) abandons the Project any time during the Term of Agreement;

(iii) fails to provide, renew or replenish the Performance Security as provided in Article 23 of the DFA;

(iv) fails to achieve AT&C Loss reduction targets continuously for a period of three (3) years as provided in Article 19.1 of the DFA;

(v) doesn't comply with the provisions of Article 14.2;

(vi) fails to fulfill any of the directions or orders of the MPERC or comply with the requirements of the Electricity Laws or other Laws in relation to the Franchisee Area;

(vii) commits any other breach of the terms and conditions of the DFA;

(viii) has made any false and misleading representations or warranty;

(ix) unlawfully repudiates the DFA or has otherwise expressed an intention not to be bound by the DFA;

(x) transfers, otherwise than pursuant to Law of either:

(a) the rights and/or obligations of the Distribution Franchisee under the DFA, or

(b) all or material part of the assets or undertaking of the Distribution Franchisee except where such transfer, in the opinion of the Distribution Licensee does not

affect the financial and technical capability of the Distribution Franchisee to perform its obligations under the DFA;

(xi) is adjudged bankrupt or insolvent; or if a trustee or receiver is appointed for the Distribution Franchisee or for any of its property that in the opinion of the Distribution Licensee has a Material Adverse Effect on the financial and technical capability of the Distribution Franchisee to perform its obligations under the DFA;

(xii) is affected by any petition for winding up of the Distribution Franchisee is admitted by a court of competent jurisdiction or the Distribution Franchisee is ordered to be wound up by court,

(xiii) suffers an execution being levied on any of its assets causing a Material Adverse Effect on the performance of the Distribution Franchisee's obligations under the DFA and allows it to be continued for a period of (15) fifteen days;

(xiv) sells Input Energy to any party outside the Franchisee Area;

(xv) indulges in any malpractice or corrupt practice;

(xvi) fails to maintain the supply hours on feeder(s) as per provisions in Article 5.9

(xvii) issues bills to metered Consumers on assessment basis as per provisions of Article 12.4.(v)

32.1.2 **Distribution Licensee's event of default**

The occurrence and continuation of the following event, unless such event occurs as a result of a Force Majeure Event or a breach by the Distribution Franchisee of its obligations under this Agreement, shall constitute a the Distribution Licensee's event of default.

(i) The Distribution Licensee does not supply power to the Distribution Franchisee as per Article 5.1to the extent of Minimum Input Energy otherwise than on the directions of SLDC or MPERC.

32.2 **Termination procedure for event of default by the Distribution Franchisee**

32.2.1 On the occurrence of a "Distribution Franchisee's event of default", under any of the provisions of Article 32.1.1 herein, the Distribution Licensee shall issue an event of default notice to the Distribution Franchisee.

32.2.2 The Distribution Franchisee shall mitigate consequences of such event of default within a period of forty-five (45) days from the date of such notice.

32.2.3 In case the Distribution Franchisee is unable to mitigate the consequences of event of default within the period stipulated at Article 32.2.2, the Distribution Licensee shall issue a final notice of Termination to the Distribution Franchisee, indicating the event of default, and the Agreement shall stand terminated from the fifteenth (15th) day from the date of the final Termination Notice.

32.2.4 It is expressly agreed that both the Parties shall continue to perform their respective obligations until the serving of final termination notice, whereupon this Agreement shall terminate on date as stipulated in Article 32.2.3.

32.2.5 The Distribution Licensee shall exercise its step-in-rights after serving the final Termination Notice. The Distribution Franchisee shall be obliged to extend assistance for a period of ninety (90) days from the serving of such final termination notice, failing which an amount equivalent to ten percent (10%) of the Performance Security may be recovered from the Performance Guarantee by the Distribution Licensee on account of non-provision of such assistance by the Distribution Franchisee.

32.3 **Termination procedure for the Distribution Licensee event of default**

32.3.1 On the occurrence of an event of default by the Distribution Licensee under the provisions of Article 32.1.2, the Distribution Franchisee shall issue an event of default notice to the Distribution Licensee.

32.3.2 The Distribution Licensee shall eliminate/ mitigate consequences of such Event of Default within a period of forty-five (45) days from the date of such notice.

32.3.3 In case the Distribution Licensee is unable to eliminate/ mitigate the consequences of event of default within the period stipulated at Article 32.3.2, the Distribution Franchisee shall issue a final notice of Termination to the Distribution Licensee indicating the event of default by the Distribution Licensee, and the Agreement shall stand terminated from the fifteenth (15th) day from the date of the final termination notice.

32.3.4 It is expressly agreed that both the Parties shall continue to perform their respective obligations until the serving of final termination notice, whereupon this Agreement shall terminate on date as stipulated in Article 32.2.3.

32.3.5 The Distribution Licensee shall exercise its step-in-rights after receiving the final termination notice. The Distribution Franchisee shall be obliged to extend transition assistance for a period of ninety (90) days from the serving of such Final termination notice, failing which an amount equivalent to ten percent (10%) of the Performance Security may be recovered from the Performance Guarantee by the Distribution Licensee on account of non-provision of such assistance by the Distribution Franchisee.

32.4 **Consequences due to the Distribution Franchisee event of default**

32.4.1 The Distribution Licensee shall have right to invoke the Performance Securityfurnished by the Distribution Franchisee and to recover all dues and outstanding amount in case of event of default as per Article 32.1.1, if any. In addition, in case of abandonment of the Project, the Distribution Licensee shall take possession of all the Distribution Assets and Distribution Franchisee Assets even without serving any notice to the Distribution Franchisee.

32.4.2 The liability of meeting the repayment obligations, in respect of financing arrangements for Distribution Franchisee Assets shall be assumed by the Distribution Licensee to a limited extent and the Distribution Licensee shall pay the lender's claim only upto the depreciated value of Distribution Franchisee Assets calculated as per the provision of Article 14.11. Balance liability if any shall be settled by the Distribution Franchisee.

32.4.3 Upon Termination of the DFA, the Distribution Franchisee shall forthwith cease to exercise any of its rights under the DFA and shall not have any right to collect any payment from the Consumers in the Franchisee Area. The Distribution Licensee shall be immediately entitled to enter into and take control and possession of the entire Distribution System, including the Distribution Franchisee Assets.

32.4.4 The Distribution Franchisee shall be liable to account for and make all payments due to the Distribution Licensee under the DFA;

32.4.5 The above shall be without prejudice to the right of the Distribution Licenseefor any other reliefs including but not limited to compensation for damages, injunction and specific performance.

32.4.6 The Distribution Licensee unconditionally reserves the right to claim from the Distribution Franchisee any cost, expenses or loss that may be incurred by reasons of breach of terms and conditions of the DFA.

32.4.7 The Distribution Franchisee shall account for and hand over to the Distribution Licensee all Distribution Assets, including Distribution Franchisee Assets as per the provision of Article 32.6, in accordance with the Distribution Asset Inventory prepared under Article 16.1, as updated from time to time. The ownership of all such assets shall vest in the Distribution Licensee.The Distribution Franchisee shall, without any excuse, execute such documents as may be necessary to perfect the title of the Distribution Licensee over such Distribution Franchisee Assets.

32.4.8 Subject to the provisions of Articles 32.4.1 and 32.4.2, in case of termination of Agreement on occurrence of an event of default by the Distribution Franchisee, the Distribution Licensee shall have the right to take over the Distribution Franchisee Assets and the compensation payable by the Distribution Licensee to the Distribution Franchisee towards such assets shall be calculated as below:

(a) In case the Agreement terminates within the first five (5) years from the Effective Date, the Distribution Licensee shall not pay any compensation to the Distribution Franchisee at all.

(b) In case the Agreement terminates within the sixth (6th) and the tenth (10th) year of the Contract Period, the net amount payable to the Distribution Franchisee shall be fifty percent (50%) of the amount calculated as below:

- the depreciated value of Distribution Franchisee Assets as on the date of defaultcalculated as per the provision of Article 14.11;
- **LESS** the amount of debt obligation assumed by the Distribution Licensee as per the provisions of Article 32.4.2;

(c) In case the Agreement terminates during eleventh (11th) to fourteenth (14th) year of Contract Period, the net amount payable to the Distribution Franchisee shall be seventy-five percent (75%) of the amount calculated as below:

- the depreciated value of Distribution Franchisee Assets as on the date of default calculated as per the provision of Article 14.11;
- **LESS** the amount of debt obligation assumed by the Distribution Licensee as per the provisions of Article 32.4.2.

32.4.9 Within Thirty (30) days of the final Termination notice, the Parties shall carry out a Joint Asset Survey of the Distribution Assets and Distribution Franchisee Assets.

32.4.10 Any defects and deficiencies in the Distribution Assets and Distribution Franchisee Assets pointed out by the Distribution Licensee during the course of Joint Asset Survey shall be removed and rectified by the Distribution Franchisee at its own cost within fifteen (15) days,

failing which the Distribution Licensee shall remove or rectify the defec[ts] and deficienc[ie]s and recover all costs and expenses thereof from the Distribution Franchisee, including recourse to the Performance Security;

32.5 The Distribution Franchisee shall forthwith deliver to the Distribution Licensee all documents including the forms used, partially used and unused receipt books, all promotional materials, and other materials if any which may have come into its possession or custody of the Franchisee under the terms of the DFA or otherwise;

32.6 The Distribution Franchisee shall submit a statement to the Engineer-in-Charge, indicating the amount receivable from the Distribution Licensee under the DFA, including reimbursement on account of Distribution Franchisee Asset under Article 14.11 and Article 32.4.8, (hereinafter called "Distribution Franchisee's Final Bill"), within fifteen(15) days from the final Termination Notice. Similarly, the Engineer-in charge shall workout the dues payable by the Distribution Franchisee, if any ("Discom Final Bill") w[it]hin fifteen (15) days from the final Termination Notice.

32.7 Upon receipt of the Distribution Franchisee's Final Bill, the Engineer-in charge shall arrange the verification of the same and intimate the Distribution Franchisee the additional information required by him, if any, within fifteen (15) days or such other time as may be agreed mutually. Similarly, upon receipt of the Distribution Licensee's Final Bill, the Distribution Franchisee shall arrange the verification of the Distribution Licensee's Final Bill and intimate the Engineer-in-Charge additional information required by him, if any, within fifteen (15) days or such other time as may be agreed mutually.

32.8 Subject to submission of additional information or reply to queries by the Distribution Franchisee within the time stipulated, the Engineer-in-Charge shall prepare the statement of net amount payable to the Distribution Franchisee, within thirty (30) days from receipt of the Distribution Franchisee's Final Bill, and intimate to the Distribution Franchisee the net amount, if any, payable to/receivable from the Distribution Franchisee, which shall be called "Certificate of Engineer-in-Charge on closure of contract".

32.9 The Engineer-in-Charge/ the Distribution Franchisee, as the case may be, shall release the net amount, if any, as per Article 32.8after receipt of "Certificate of Engineer-in-charge on closure of contract" within a period of thirty (30) days from the date of receipt of such certificate.

32.10 **Consequences due to the Distribution Licensee event of default**

The Distribution Licensee shall make payment as per Article 32.11.1to the Distribution Franchisee.

32.11 **Expiry Payment**- Payment at the Expiry Date including termination on account of the Distribution Licensee event of default but excluding event of default by the Distribution Franchisee

32.11.1 The Expiry payment to the Distribution Franchisee shall consist of and limited to the following:

I. Depreciated value of Distribution Franchisee Assets worked out as per Article14.11 as at the end of the financial year immediately preceding the Expiry Date;
II. Amount payable by the Distribution Licensee against the cost of inventory of O&M spares taken over in terms of the provision of Article 22.3,
III. **LESS** any outstanding amount towards the Distribution Licensee and advance payment collected by the Distribution Franchisee from the Consumers during the Contract Period, if any.

32.11.2 Amounts due from the Consumer from the billing cycle ending on any date prior to the Expiry shall be permitted to be collected by the Distribution Franchisee upto a maximum period of three (3) months after the Expiry Date. Thereafter, any such amount collected from the Consumer by the Distribution Licensee shall be retained by the Distribution Licensee and the Distribution Franchisee shall not be entitled for any claim on such amount.

32.11.3 An amount equal to seventy percent (70%) of the amount as determined under Article 32.11.1 shall be released to the Distribution Franchisee not later than forty-five (45) days from the Expiry Date upon furnishing of a certificate of non-encumbrance by the Distribution Franchisee. The balance payment shall be released within ninety (90) days from Expiry Date, subject to fulfillment of the following conditions

(i) Distribution Franchisee Assets and Inventory of O&M spares have been physically verified by the Joint Inspection Team of the Distribution Licensee and the Distribution Franchisee and have been found to be in working order. In case of any shortfalls, the amount due shall be reduced to the extent of depreciated value of such Assets. Depreciated value of Distribution Franchisee Assets and Inventory of O&M spares shall be worked out as per Article 14.11 and 22.3 respectively.

(ii) The Distribution Franchisee has furnished a certificate of Non-encumbrance issued both by the Distribution Franchisee as well as its bankers in respect of such Distribution Franchisee Assets wherever applicable.

(iii) The title and possession of such assets has been transferred to the Distribution Licensee.

32.11.4 The Distribution Licensee shall furnish to the Distribution Franchisee a bank guarantee for an amount equivalent to the depreciated value of Distribution Franchisee Assets as at the end of the financial year immediately preceding the Expiry Date as per Article 14.11. The Bank Guarantee shall be furnished within thirty (30) days from the Expiry Date, valid for a period upto six (6) months after the Expiry Date. Failure to make the payment as per the provisions of Article 32.11.3 shall make the Distribution Franchisee eligible to claim such payment by invoking the Bank Guarantee to the extent payment is not released by the Distribution Licensee.

32.11.5 In case the payments due to the Distribution Franchisee under Article 32.11.1 are released within the time limit specified under Article 32.11.3, the Distribution Franchisee shall return the bank guarantee immediately on receipt of the payment.

32.12 The Distribution Franchisee shall be obliged to extend transition assistance for a period of ninety (90) days from the Expiry Date. The transition assistance by the Distribution Franchisee shall also include the hand-holding and training of the Distribution Licensee employees on the new IT initiatives taken by the Distribution Franchisee in the Franchisee Area. The Distribution Franchisee shall also hand over all the source code of the IT software along with the hardware in working condition and master database in platform independent/ open file format used in the Franchisee Area to the Distribution Licensee.

ARTICLE 33. LIABILITY AND INDEMNITY

33.1 General Indemnity

The Distribution Franchisee will indemnify, defend and hold the Distribution Licensee harmless against any and all proceedings, actions, suits and third party claims for loss, damage and expense of

whatever kind and nature arising out of any breach by the Distribution Franchisee of any of its obligations under the Distribution Franchisee Agreement.

33.2 Without limiting the generality of Article 33.1, the Distribution Franchisee shall fully indemnify and defend the Distribution Licensee including its officers, servants and agents (the "Distribution Licensee's Indemnified Persons") from and against any and all loss and damages, fines, penalties, including payment of interest thereon, arising out of or with respect to

33.2.1 failure of the Distribution Franchisee to comply with the Electricity Laws or any other Law,

33.2.2 failure in payments of income or other taxes, required to be paid by the Distribution Franchisee without reimbursement hereunder, or

33.2.3 non-payment of amounts due as a result of materials or services supplied to the Distribution Franchisee or which are payable by the Distribution Franchisee.

33.3 Without limitation to the provisions of the Article 33.1 and 33.2 the Distribution Franchisee shall fully indemnify, and defend the Distribution Licensee's Indemnified Persons from and against any and all damages which the Distribution Licensee, Indemnified Persons may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of any loss or damage to any Consumer in the Franchisee Area.

33.4 In respect of the contracts terminated under Article 13.4, all the liabilities and third party claims accrued upto the Effective Date in respect of such contracts shall be borne by the Distribution Licensee.

33.5 **Procedure for claiming indemnity**

33.5.1 Third party claims

(a) Where the Distribution Licensee is entitled to indemnification (Indemnified Party) from the other Party (Indemnifying Party) pursuant to Article 33.1, it shall promptly notify the other Party of such claim, proceeding, action or suit referred to in Article 33.1 in respect of which it is entitled to be indemnified. Such notice shall be given as soon as reasonably practicable after the Indemnified Party becomes aware of such claim, proceeding, action or suit. The Indemnifying Party shall be liable to settle the indemnification claim within thirty (30) days of receipt of the above notice. Provided however that, if:

i. the Parties choose to contest, defend or litigate such claim, action, suit or proceedings in accordance with Article 33.5.1 (b) below; and

ii. the claim amount is not required to be paid or deposited to such third party pending the resolution of the Dispute.

The Indemnifying Party shall become liable to pay the claim amount to Indemnified Party or to the third party, as the case may be, promptly following the resolution of the Dispute, if such Dispute is not settled in favour of the Indemnifying Party.

(b) The Indemnified Party may in consultation with the Indemnifying Party, contest, defend and litigate a claim, action, suit or proceeding for which it is entitled to be indemnified under Article33.1and the Indemnifying Party shall reimburse to the Indemnified Party all reasonable costs and expenses incurred in this respect. However, the Indemnified Party shall not settle or compromise such claim, action, suit or proceedings without first getting the consent of the Indemnifying Party, which consent shall not be unreasonably withheld or delayed. The Indemnifying Party may, at its own expense, assume control of the defence of any proceedings brought against the Indemnified Party, if it acknowledges its

obligation to indemnify, gives prompt notice of its intention to assume control of the defence, and employs an independent legal counsel at its own cost.

33.6 **Indemnifiable Losses:**

Where the Distribution Licensee is entitled to indemnifiable losses from the Indemnifying Party pursuant to Article 33.1, it shall promptly notify the Indemnifying Party of the indemnifiable losses. The Indemnifying Party shall pay the indemnifiable losses within [30] thirty days of receipt of the notice from Indemnified Party seeking indemnifiable losses. It is expressly agreed herein that the indemnifiable losses of either Party shall be restricted to costs and expenses for all claims except for the indemnifiable losses for third party claims, wherein consequential damages shall also be included, if applicable.

ARTICLE 34. DISPUTE RESOLUTION

34.1 **Amicable Resolution**

34.1.1 Save where expressly excluded in this Agreement, any Dispute, difference or controversy of whatever nature howsoever arising under, out of or in relation to the DFA and so notified in writing by either Party to the other (the "Dispute") in the first instance shall be resolved amicably in accordance with the conciliation procedure set forth in Article 34.1.2.Provided further that the Party requiring conciliation of a Dispute shall issue a notice in writing of at least thirty (30) days to the other Party informing the nature of Dispute, cause of Dispute and documentary evidence and its intention of initiating conciliation procedure.

34.1.2 In the event of any Dispute between the Parties, such Dispute shall be first referred to the Engineer-in-Charge of the Franchisee Area and the Franchisee Representative, for amicable settlement. Upon such reference, the said two individuals shall meet not later than fifteen (15) days of the date of such request to discuss and attempt to amicably resolve the Dispute.

34.1.3 If the Dispute is not resolved amicably as evidenced by the signing of the written terms of settlement within thirty (30) days of the aforesaid request in writing or such longer period as may be mutually agreed by the Parties, then the provisions of Article 34.1.4 shall apply.

34.1.4 In the event of the Dispute still existing unresolved between the Parties, such Dispute shall be referred by either Party to the committee consisting of following members for amicable settlement:

(a) Franchisee Representative or any other officer duly authorized by the Distribution Franchisee;

(b) Director (Finance), Distribution Licensee;

(c) Head of the Commercial Department, Distribution Licensee;

Upon such reference, the said committee shall meet not later than fifteen (15) days from the date of such request to discuss and attempt to amicably resolve the Dispute.

34.1.5 If the Dispute is still not resolved as evidenced by the signing of the written terms of settlement within thirty (30) days of the aforesaid notice in writing under Article 34.1.4 or such longer period as may be mutually agreed by the Parties, then the provisions of Article 34.1.6 shall apply.

34.1.6 In the event of any Dispute arising between the Parties as regards the interpretation of the DFA or any matter arising out of or in connection with the DFA or non performance of any obligation hereunder, which cannot be resolved under Article 34.1.4, the proceedings shall be conducted subject to the provisions of the "Madhya Pradesh Madhyastham Adhikaran Adhiniyam, 1983".

ARTICLE 35. DISPUTED PAYMENTS

35.1 An Invoice raised by the Distribution Licensee in terms of Article-9 can be disputed by the Distribution Franchisee; however, the Distribution Franchisee shall remit the payment against the same to the Distribution Licensee within Due Date.

35.2 In case the Dispute is resolved in the favour of the Distribution Franchisee, the Distribution Licensee shall within seven (7) days of settlement of such Dispute refund the excess amount along with an interest @ twelve percent (12%) per annum on the refund amount, for a period from the date of remission of payment by the Distribution Franchisee and the date of refund of the excess amount by the Distribution Licensee.

35.3 The information submitted by the Distribution Franchisee forming the basis for the Invoice raised by the Distribution Licensee can also be disputed by the Distribution Licensee.

ARTICLE 36. MISCELLANEOUS PROVISIONS

36.1 Additional provisions

(i) The approvals and consents required by any of the Parties under the DFA shall not be withheld or delayed unnecessarily by respective Parties. However, any approval and/or consent shall be conveyed by either Party within a period not exceeding fifteen (15) days from receipt of letter of request. Any approval or consent shall be valid only if it is given in writing.

(ii) Engineer-in-Charge shall make reasonable efforts to ensure that the staff of the Distribution Licensee which is not assigned to the Franchisee Area does not obstruct the Distribution Franchisee in exercising its rights in performing its obligations under the DFA.

(iii) The Distribution Licensee at the request of the Distribution Franchisee shall endeavor to depute vigilance team of the Distribution Licensee to the Franchisee Area for vigilance checking and all the associated cost of such vigilance checking shall be borne by the Distribution Franchisee on per day basis.

(iv) The Distribution Licensee shall refrain from unreasonably interfering with the Distribution Franchisee in exercising of its rights or the performance of or compliance with its obligations under the DFA.

(v) The Distribution Franchisee shall deploy at least five (5) senior executives on full time basis, each having minimum educational qualification of B.E. or B.Tech. or equivalent degree in engineering and each of them having experience of not less than ten (10) years in power sector.

36.2 Both the Parties shall duly appoint their respective representatives for the purposes of implementation of the DFA and to settle amicably Disputes or differences among them arising out of the

implementation of the DFA. The respective representatives shall be Engineer-In-charge and Franchisee Representative.

36.3 The Distribution Franchisee may consider the use of innovative operating systems and technical solutions for AT&C Loss reduction, theft prevention, credit control, etc. If such a system is proposed to be implemented then the Distribution Franchisee will submit information about plans, processes and procedures of any such system to the Distribution Licensee for its approval. All these systems must be in compliance with statutory provisions. The Distribution Licensee in consultation with the Distribution Franchisee may depute a reasonable number of its employees to be trained on such new systems and processes.

36.4 In the event the Distribution Franchisee undergoes merger/ acquisition/ amalgamation/consolidation, such arrangement will be subject to prior approval of the Distribution Licensee at their discretion. The decision of the Distribution Licensee shall be final and binding upon the Distribution Franchisee.

36.5 The Distribution Licensee at the request of the Distribution Franchisee shall pursue with the relevant agencies for the augmentation of EHV line and transformer capacity for the Franchisee Area.

36.6 Severability

If for any reason whatsoever any provision of the DFA is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions of the DFA shall not be affected in any manner. The Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision.

ARTICLE 37. GOVERNING LAW AND JURISDICTION

37.1 The DFA shall be construed and interpreted in accordance with and governed by the Laws of India and the courts at Indore, M.P shall have exclusive jurisdiction over all matters arising out of or relating to the DFA.

37.2 The Distribution Franchisee shall be bound by all the directions issued by the MPERC from time to time and acknowledges and accepts that MPERC can exercise its powers and functions qua the Distribution Franchisee notwithstanding that the Distribution Franchisee is not a licensee of MPERC. Further, any direction issued by MPERC to the Distribution Licensee shall mutatis mutandis apply to the Distribution Franchisee upon being intimated by the Distribution Licensee to the Distribution Franchisee.

ARTICLE 38. WAIVER

38.1 Waiver by either Party of any default of other Party in the observance and performance of any provision of or obligations of or under this Agreement: -

(i) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under the DFA;
(ii) shall not be effective unless it is in writing and issued by the Engineer-In-Charge and Franchisee Representative; and
(iii) shall not affect the validity or enforceability of the DFA in any manner.

38.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of the DFA nor any obligation there under nor time or other indulgence

granted by a Party to the other Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

ARTICLE 39. SURVIVAL

39.1 Termination of the Distribution Franchisee Agreement:

i. shall not relieve the Distribution Franchisee or the Distribution Licensee of any obligations hereunder which expressly or by implication survives Termination hereof, and

ii. except as otherwise provided in any provision of the Distribution Franchisee Agreement expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.

39.2 All obligations surviving the cancellation, expiration or Termination of the Distribution Franchisee Agreement shall only survive such Termination or Expiry of the Distribution Franchisee Agreement.

39.3 Notwithstanding anything to the contrary contained in the Distribution Franchisee Agreement, any Termination pursuant to the provisions of the Distribution Franchisee Agreement shall be without prejudice to the accrued rights of either Party including its right to claim and recover money, damages, insurance proceeds, security deposits, and other rights and remedies, which it may have in Law or contract. All rights and obligations of either Party under the Distribution Franchisee Agreement, shall survive the Termination to the extent such survival is necessary for giving effect to such rights and obligations.

39.4 The Expiry or Termination of the Distribution Franchisee Agreement shall not affect accrued rights and obligations of the Parties under the Distribution Franchisee Agreement, nor shall it affect any continuing obligations for which the DFA provides, either expressly or by necessary implication, the survival of, post its expiry or Termination.

ARTICLE 40. NOTICES

40.1 Any notice or other communication to be given by one Party to the other, under or in connection with the matters contemplated by the Distribution Franchisee Agreement shall be in writing and shall:

i. In the case of the Distribution Franchisee, be given by letter delivered by hand to the following address

_____
_____
_____.

ii. In the case of the Distribution Licensee, be given by letter delivered by hand to the following address

_____
_____
_____.

40.2 Copies of all notices shall also be sent by facsimile and by registered acknowledgement through pre-paid post or courier.

ARTICLE 41.INDEPENDENT CONTRACTOR

41.1 Each Party hereto is an independent contractor and nothing contained in the DFA shall be construed to be inconsistent with this relationship or status. Neither Party owes a fiduciary duty to the other. Nothing in the Distribution Franchisee Agreement shall be in any way construed to constitute either Party as the agent, employee or representative of the other Party. As an independent contractor, each Party has relied on its own expertise or the expertise of its legal, financial, technical or other advisors.

ARTICLE 42. RELIANCE

42.1 Each Party has consulted legal, financial, technical or other experts it deems necessary or desirable before entering into the Distribution Franchisee Agreement. Each Party represents and warrants that it has read, knows, understands and agrees with the terms and conditions of the Distribution Franchisee Agreement. Each Party agrees and acknowledges that in entering into the Distribution Franchisee Agreement it is not relying on any representation, warranty or statement made by or on behalf of the other Party, whether orally or in writing, unless the same is expressly set out herein.

ARTICLE 43. LANGUAGE OF THE DFA AND COUNTERPARTS

43.1 All notices required to be given by one Party to the other Party and all other communications, documentation and proceedings which are in any way relevant to the DFA shall be in writing and in English language.

43.2 Binding effect and counterparts

a) The DFA and the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.The DFA may be executed in two counterparts, each of which when executed and delivered shall constitute an original of the DFA.

IN WITNESS WHEREOF the Parties have caused the Agreement to be executed through their duly authorized representatives as of the date and place set forth above.

For and on behalf of [Distribution Franchisee]	For and on behalf of [Distribution Licensee]
Name, Designation and Address	Name, Designation and Address
_____ Signature with seal	_____ Signature with seal
Witness: Signature , name and address 1. 2.	Witness: Signature , name and address 1. 2.

Annexure I

Bid submitted by Selected Bidder

Annexure II

Schedule of annual Input Rates

Year	Input Rate (Rs/ kWh) (up to three decimal places)	
	(Rs. in figures)	(Rs.in words)
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		

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Signature of Authorized signatory of the Distribution Licensee
Seal of the Distribution Licensee

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Signature of Authorized signatory of the Distribution Franchisee
Seal of the Distribution Franchisee

Annexure-III

Details and methodology for calculation of Average Tariff for Base Year for the Ujjain District determined by the Distribution Licensee and certified by a firm of Chartered Accountant

A. Total Billed Units	**8,489.72 Lakh Units**
B. Total Billed Amount (including Subsidy, ED and Cess)	**Rs. 37,834 Lakh**
C. Total Subsidy	**Rs. 8,503.75 Lakh**
D. Electricity Duty(ED) and Cess	**Rs. 2,567.35 Lakh**
E. Total Billed Amount (Excluding Subsidy, ED and Cess) (E=B-(C+D))	**Rs. 26,762.91 Lakh**
F. Average Tariff for the Base Year (F=E/A)	**Rs. 3.15 per Unit**

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Annexure IV

Details of ongoing capital expenditure, sanction schemes and O&M contracts in the Franchisee Area

Sr. No.	Name of Scheme	Name of Project	Name of Division	Provision		Progress as on 31.03.11		Date of Commencement	Proposed Date of Completion	Name of Agency(whom work has been awarded)
				Physical (Please specify)	Financial (Rs. Lakh)	Physical (Please specify)	Financial (Rs. Lakh)			
1	R-APDRP	IT works in R-APDRP (Part-A)	Ujjain City	Hardware, Software, UPS,Networking, Devices, Cables, telephonic intstruments etc	336.32	–	–	05.02.2010	31.03.2012	TCS Ltd.
2	R-APDRP	IT works in R-APDRP (Part-A)	Nagda	Hardware, Software, UPS,Networking, Devices, Cables, telephonic intstruments etc	84.04	–	–	05.02.2010	31.03.2012	TCS Ltd.
3	R-APDRP	IT works in R-APDRP (Part-A)	Barnagar	Hardware, Software, UPS,Networking, Devices, Cables, telephonic intstruments etc	76.73	–	–	05.02.2010	31.03.2012	TCS Ltd.
4	R-APDRP	(for reduction of line losses upto 15% in R-APDRP (Part-B)	Ujjain City	System Strengthening works like installation of New 33/11 kv s/s, Add.S/s, 33 KV, 11 KV Line, New Dist. X'mers,HVDS,cabling in LT Line in Place of conductor, replacement of meter & Service ines etc	5492.65	New 33/11 Kv S/s, Power X'mer Capacity enhancement, New 11 LV/LT/DTR/HVDS & Meter Shifting outside	–	12.01.2011	11.01.2012	KEI Indu.Ltd.,Nai Delhi
5	R-APDRP	(for reduction of line losses upto 15% in R-APDRP (Part-B)	Nagda	System Strengthening works like installation of New 33/11 kv s/s, Add.S/s, 33 KV, 11 KV Line, New Dist. X'mers,HVDS,cabling in LT Line in Place of conductor, replacement	855.03	New 33/11 Kv S/s, Power X'mer Capacity enhancement, New 11 LV/LT/DTR/HVDS & Meter Shifting outside	–	01.04.2010	31.03.2012	Deptt.

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Sr. No.	Name of Scheme	Name of Project	Name of Division	Provision		Progress as on 31.03.11		Date of Commencement	Proposed Date of Completion	Name of Agency(whom work has been awarded)
				Physical (Please specify)	Financial (Rs. Lakh)	Physical (Please specify)	Financial (Rs. Lakh)			
				of meter & Service ines etc						
6	R-APDRP	(for reduction of line losses upto 15% in R-APDRP (Part-B)	Barnagar	System Strengthening works like installation of New 33/11 kv s/s, Add.S/s, 33 KV, 11 KV Line, New Dist. X'mers,HVDS,cabling in LT Line in Place of conductor, replacement of meter & Service ines etc	324.78	New 33/11 Kv S/s, Power X'mer Capacity enhancement, New 11 LV/LT/DTR/HVDS & Meter Shifting outside	–	01.04.2010	31.03.2012	Deptt.
7	ST (N)	New and Augementaion of 11 kv Line with Raccon/Rabbit conductor (GET-8)	Ujjain Circle	Construction of 11 KV Line & Installation ofAdditional 11 KV Bay with Citcuit Breaker at exiting 33/11 KV S/s	126	50 % W/C	56	05.05.2007	30.06.2011	GET Eng.Channai
8	ST (N)	Augementaion of exiting 33 kv Line conductor with Mis Span supports (Godrej-21)	Ujjain Circle	Augementaion of exiting 33 kv Line conductor with Mis Span supports	86	–	–	16.07.2007	30.06.2011	Godrej & Boyece Ltd.Bhopal
9	ST (N)	Augementaion of 11 kv Line with Raccon/Rabbit conductor (Godrej-27)	Ujjain Circle	Augmentaion of Exiting 11 kv Line Conductor	85	60 % W/c	65	18.01.2008	30.06.2011	Godrej & Boyece Ltd.Bhopal
10	ADB-II	Augementation and Additional of Powe X'mer (Bharat)	Ujjain Circle	Augementation and Additional of Powe X'mer	200	75 % W/C	150	06.08.2009	30.06.2011	Bharat Ele.Sangli
11	ADB-II	New and Augementaion of 11 kv Line with Raccon/Rabbit conductor (Genus)	Ujjain Circle	New and Augementaion of 11 kv Line with Raccon/Rabbit conductor	48	–	–	16.09.2008	30.06.2011	Genus Powe Inf.Ltd.,Jaipur
12	ADB-II	New and Augementaion of 11 kv Line with	Ujjain Circle	New and Augementaion of 11 kv Line with Raccon/Rabbit	509	–	–	27.03.2010	26.09.2011	Hythro Power Corp.Gurgaon

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Sr. No.	Name of Scheme	Name of Project	Name of Division	Provision		Progress as on 31.03.11		Date of Commencement	Proposed Date of Completion	Name of Agency(whom work has been awarded)
				Physical (Please specify)	Financial (Rs. Lakh)	Physical (Please specify)	Financial (Rs. Lakh)			
		Raccon/Rabbit conductor (Hythro)		conductor						
13	ADB-II	New 11 Kv Line, New 11 kv Bays with VCB & Installation of Small Capacity DTRs for Sepration of Agriculture & Village Load (Blue star) .	Ujjain O&M	New 11 Kv Line, New 11 kv Bays with VCB & Installation of Small Capacity DTRs for Sepration of Agriculture & Village Load (Blue star) .	1340	_	_	04.11.2010	03.11.2011	Blue StarLtd.,Gurgaon
14	ADB-II	Augementation of Powe X'mer (Blue star) & Add Power Xmer installation.	Ujjain Circle	Augementation of Powe X'mer	250	_	_	15.06.2010	14.12.2011	Blue StarLtd.,Gurgaon
15	ADB-II	New 33 kv Line with Raccon/Rabbit conductor (Icomm-27)	Ujjain Circle	New 33 kv Line with Raccon/Rabbit conductor (Icomm-27)	64	_	_	18.05.2010	17.11.2011	Icomm Tele Ltd.,Hyderabad
16	ADB-II	Construction of 11 KV Lines (On bare conductor, HT AB Cable). Augmentation of conductor of existing LT Lines, Renovation works of existging 11/0.4 KV S/s Installation of New 63 KVA 25 KVA DTRs at identified locations, conversion of LT 3 phase 5 wire line with AB cable, renovation of service lines. Shifting/ installation of energy meter, Annual maintance (for five year) in	Ujjain Region	Construction of 11 KV Lines (On bare conductor, HT AB Cable). Augmentation of conductor of existing LT Lines, Renovation works of existging 11/0.4 KV S/s Installation of New 63 KVA 25 KVA DTRs at identified locations, conversion of LT 3 phase 5 wire line with AB cable, renovation of service lines. Shifting/ installation of energy meter, Annual maintance (for five year) in vaious towns of Ujjain Circle (KEI)	2434	_	_	08.03.2011	08.09.2012	KEI Indu.Ltd.,Nai Delhi

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Sr. No.	Name of Scheme	Name of Project	Name of Division	Provision		Progress as on 31.03.11		Date of Commencement	Proposed Date of Completion	Name of Agency(whom work has been awarded)
				Physical (Please specify)	Financial (Rs. Lakh)	Physical (Please specify)	Financial (Rs. Lakh)			
		vaious towns of Ujjain Circle (KEI)								
17	ADB-II	Installation and Commissioning of New 11 Kv Shunt Capacitor Bank of 1200 & 600 KVAR (Shreem Cap.)	Ujjain Circle	Installation and Commissioning of New 11 Kv Shunt Capacitor Bank of 18 Nos. 1200 & 23 Nos. 600 KVAR	206	Survey approved	_	19.05.2010	18.11.2011	Shreem Electric Ltd., Jaysinghpur
18	TS-399	Supply of Intllegent GSM modem suitable with GSM/GPRS mode of cimmunication having stre & forward feature suitavle for automatic meter reding system through GSM/GPRS network along with all necessary assessories such Yagi Antenna.connecting cable optical cable in built power supply arrangement etd. Pilfer proof meter box to house the exiting three phase whole current energy meter.(Secure Meters)	Ujjain Circle	Supply of 454 Nos.Intllegent GSM modem suitable with GSM/GPRS mode of cimmunication having stre & forward feature suitavle for automatic meter reding system through GSM/GPRS network along with all necessary assessories such Yagi Antenna.connecting cable optical cable in built power supply arrangement etd. Pilfer proof meter box to house the exiting three phase whole current energy meter.	44	Survey approved	_	08.06.2010	07.12.2011	Secure Meters Ltd., Udipur
19	ADB-II	Installation of 33 kv Bay & 33 kv & 11 Kv VCB, & Renovation & Modernisation of 33/11 kv s/s	Ujjain Circle	Installation of 5 Nos. 33 kv Bay & 33 kv & 17 Nos. 11 Kv VCB, & Renovation & Modernisation of 33/11 kv s/s	104	30 % W/c	35	30.08.2008	30.06.2011	GET Eng.Channai
20	STN	Revised estimate for joinging 33KV line	Ujjain City	33KV line across the railway tracks at	8.70	Order issued by SE O&M on Dated	–	23.03.2011	30.06.11	Departmental

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Sr. No.	Name of Scheme	Name of Project	Name of Division	Provision		Progress as on 31.03.11		Date of Commencement	Proposed Date of Completion	Name of Agency(whom work has been awarded)
				Physical (Please specify)	Financial (Rs. Lakh)	Physical (Please specify)	Financial (Rs. Lakh)			
		water works, Datta Akhada, Mahasweta Ist across the railway tracks of Ujjain fatehabad		Chintaman Fanta		22-03-2011				
21	GO MP	33/11KV LINE from Panbihar to Ramgarh(GOMP(N))	Ujjain	33 KV LINE WORK 2.50 km	7.75	Pole Transport, Work in Progress	–	15.09.10	31.03.12	Departmental
22	SCSP	Estimate for 33 KV lIne interconnection Makdone Feeder & 33 KV Ramdi feeder ST(N)00 (SCSP)	Tarana	33 KV line interconnection WORK 14.00 km	45.81	12.00 km W/C ,Balance Work in Progress	–	15.04.10	31.12.11	Departmental
23	SCSP	Provided 33KV line from Chorwasa tapping to Alote jagir (SCSP)	Nagda	33 KV line WORK 9.00 km	33.69	Pole Transport, Work in Progress	–	15.4.11	31.03.12	Departmental
24	SCSP	33KV line from Ghosla to Ghosla (SCSP)	Mehidpur	33 KV line WORK 8.00 km	33.29	Work to be Taken up	–	Yet to be started	31.03.12	Departmental
25	SCSP	33/11KV Sundrabad to Biriya khedi (SCSP)	Barnagar	11 kv line Rly Crossing Work	10.76	Order issued by SE O&M on Dated 22-03-2011	–	23.03.2011	30.06.11	Departmental
26	SCSP	Augamentation of 3.15MVA Power xmer to 5 MVA at Devrundi(SCSP)	Barnagar	Augamentation of 3.15MVA Power xmer to 5 MVA	27.87	33 KV VCB Installed, Bettry Set & Control Room Required	–	15.04.11	31.12.11	Departmental
27	SCSP	Estimate for Extension of 33 KV lIne From 220 KV S/S Barnagar to Runija for Bifurcation of 33 KV Kh.Kalan feeder (SCSP)	Barnagar	33 KV line WORK 18.00 km	65.78	Pole Transport, Work in Progress	–	15.04.11	31.03.2012	Departmental
28	SCSP	Estimate for Extension of 33 KV lIne From 220 KV	Barnagar	33 KV line WORK 17.00 km	62.52	Work to be Taken up	–	Yet to be started	31.03.2012	Departmental

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Signature of Authorized signatory of the Distribution Licensee
Seal of the Distribution Licensee

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Signature of Authorized signatory of the Distribution Franchisee
Seal of the Distribution Franchisee

Sr. No.	Name of Scheme	Name of Project	Name of Division	Provision		Progress as on 31.03.11		Date of Commencement	Proposed Date of Completion	Name of Agency(whom work has been awarded)
				Physical (Please specify)	Financial (Rs. Lakh)	Physical (Please specify)	Financial (Rs. Lakh)			
		S/S Barnagar to Bangred for Bifurcation of 33 KV Lohana feeder (SCSP)								
29	SCSP	Estt. for New 33/11 KV 3.15 MVA S/s & 33 KV Line & New 11 KV Line at Dhabla - Hardu under (O&M) Division Tarana	Tarana	New 33/11 KV 3.15 MVA S/s & 33 KV Line 1.00 km & New 11 KV Line 5.00 km work	114.92	Work to be Taken up	–	Yet to be started	31.03.2012	Departmental
30	SCSP	Augamentation of 3.15MVA Power xmer to 5 MVA at Sijawta under O& M dn Barnagar	Barnagar	Augamentation of 3.15MVA Power xmer to 5 MVA	28.33	Work to be Taken up	–	Yet to be started	31.03.2012	Departmental
31	SCSP	Augamentation of 3.15MVA Power xmer to 5 MVA at Jahangirpur under O& M dn Barnagar	Barnagar	Augamentation of 3.15MVA Power xmer to 5 MVA	28.33	Work to be Taken up	–	Yet to be started	31.03.2012	Departmental

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Signature of Authorized signatory of the Distribution Licensee
Seal of the Distribution Licensee

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Signature of Authorized signatory of the Distribution Franchisee
Seal of the Distribution Franchisee

Annexure – V

Format of indemnity bond

Proforma Indemnity Bond to be executed by the Distribution Franchisee before taking over Distribution Assets from the Distribution Licensee and shall be valid till the Expiry Date.

(On non-judicial stamp paper of appropriate value)

INDEMNITY BOND

THIS INDEMNITY BOND is made this on this ……..day of …… 20 …..... by.....…….. *[Insert the name of the SPV signing the DFA],* a Company registered under the …….....……., having its Registered Office at ……..(hereinafter called as "Distribution Franchisee", which expression shall include its successors and permitted assigns) in favour of Madhya Paschim Kshetra Vidyut Vitaran Co. Ltd., a company incorporated under the Companies Act, 1956 having its registered office at GPH, Polo ground, Indore (hereinafter called "Distribution Licensee" which expression shall include its successors and assigns):

WHEREAS:

A. The Distribution Licensee has awarded the Distribution Franchisee a contract for Distribution and supply of electricity on behalf of the Distribution Licensee in Ujjain District vide its Letter of Award (LOA) / Contract No. ……dated……. along with Amendment No……. (applicable in case of issue of any amendments) (hereinafter called the "Contract") in terms of which Distribution Licensee has appointed the Distribution Franchisee for execution of the Contract;

B. By virtue of Article 16.6 of the said Contract, the Distribution Franchisee is required to execute an Indemnity Bond in favour of the Distribution Licensee before taking over the Distribution Assets from the Distribution Licensee.

NOW THEREFORE, this Indemnity Bond witnesseth as follows:

1. That, in consideration of various Distribution Assets determined in the Joint Inspection as per Article 4.3 of the Contract, the Distribution Franchisee hereby undertakes to indemnify and shall keep Distribution Licensee indemnified against all proceedings, actions, suits and third party claims for loss, damage and expense of any kind and nature arising out of any breach by the Distribution Franchisee of any of its obligations under the Contract;

2. That, the Distribution Franchisee is obliged and shall remain absolutely responsible for the safe transit/protection and custody of the Distribution Assets at Franchisee Area against all risks whatsoever till the Distribution Assets are duly used/erected in accordance with the terms of the Contract. The Distribution Franchisee undertakes to keep the Distribution Licensee harmless against any loss or damage that may be caused to such Distribution Assets.

……. Signature of Authorized signatory of the Distribution Licensee
Seal of the Distribution Licensee

……. Signature of Authorized signatory of the Distribution Franchisee
Seal of the Distribution Franchisee

3. That, the Distribution Franchisee undertakes that the Distribution Assets shall be used exclusively for the performance/execution of the Contract strictly in accordance with its terms and conditions and no part of the Distribution Assets shall be utilized for any other work or purpose whatsoever, without the prior written permission from the Distribution Licensee. It is clearly understood by the Distribution Franchisee that non-observance of the obligations under this Indemnity Bond by him shall *interalia* constitute a criminal breach of trust on the part of the Distribution Franchisee for all intents and purpose, including legal/penal consequences.

4. That, the Distribution Licensee is and shall remain the exclusive purchaser of the Distribution Assets free from all encumbrances, charges or liens of any kind, whatsoever. The Distribution Assets shall at all times be open to inspection and checking by the Distribution Licensee's Engineer-In-Charge or any other employee(s) / Agent(s) authorized in this regard. Further, the Distribution Licensee shall always be free at all times to take possession of the Distribution Assets in whatever form the Distribution Assets may be, if in its opinion, the said Distribution Assets are likely to be endangered, misutilized or converted to uses other than those specified in the contract by any acts of omission or commission on the part of the Distribution Franchisee or any other person or on account of any reason whatsoever and the Distribution Franchisee binds himself and undertakes to comply with the directions of demand of Distribution Licensee to return the equipment without any demur or reservation.

5. That this Indemnity Bond is irrevocable. If, at any time, any loss or damage occurs to the Distribution Assets, or the same or any part thereof is misutilized in any manner whatsoever, then the Distribution Franchisee hereby agrees that the decision of the Distribution Licensee's Representative as to assessment of loss or damage to the Distribution Asset(s) shall be final and binding on the Distribution Franchisee. The Distribution Franchisee binds itself and undertakes to replace the lost and/or damaged Distribution Assets at its own cost and/or shall pay the amount of loss to the Distribution Licensee without any demur, reservation or protest. This is without prejudice to any other right or remedy that may be available to the Distribution Licensee against the Distribution Franchisee under the Contract and under this Indemnity Bond.

6. **THE CONDITION** of this Bond is that if the Distribution Franchisee duly and punctually complies with the terms and conditions of this Bond to the satisfaction of the Distribution Licensee, then, the above Bond shall be void, but otherwise, it shall remain in full force and virtue till the expiry/termination of the Contract.

IN WITNESS WHEREOF, the Distribution Franchisee has hereunto set its hand through its authorized representative under the common seal of the Company, the day, month and year mentioned above.

For and on behalf of

M/s..... *[Insert name of the SPV]*

…….…….

(Signature)

Name: ……..

Designation: ……..…..

(Common Seal)

WITNESS:

…….
Signature of Authorized signatory of the Distribution Licensee
Seal of the Distribution Licensee

….……
Signature of Authorized signatory of the Distribution Franchisee
Seal of the Distribution Franchisee

…….. (Signature) Name: …….. Designation: …….. Address: …….	…….. (Signature) Name: …….. Designation: …….. Address: …….

Note:

* Indemnity Bonds are to be executed by the authorized person and (i) in case of contracting Company, under common seal of the Company, (ii) having the Power of Attorney issued under common seal of the company with authority to execute Indemnity Bonds, (iii) In case of (ii), the Original Power of Attorney, if it is specifically for this Contract or a Photostat copy of the Power of Attorney, if it is General Power of Attorney and such documents should be attached to the Indemnity Bond.

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Signature of Authorized signatory of the Distribution Licensee
Seal of the Distribution Licensee

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Signature of Authorized signatory of the Distribution Franchisee
Seal of the Distribution Franchisee

areas having a population over 4 lacs and annual input energy of 350 MU). It would include Asset Mapping of the entire distribution network at and below the level of 11Kv transformers and shall include the Distribution Transformers and Feeders, Low Tension lines, poles and other distribution network equipment. It will also include adoption of IT applications for meter reading, billing & collection; energy accounting and auditing; MIS; redressal of consumer grievances; establishment of IT enabled consumer service centers etc. The base line data and required system shall be verified by an independent agency appointed by the Ministry of Power.

Part – B: Renovation, modernization and strengthening of 11 kV level Substations, Transformers/Transformer Centers, Re-conductoring of lines at 11kv level and below, Load Bifurcation, Feeder Separation, Load Balancing, HVDS (11kv), Aerial Bunched Conductoring in dense areas, replacement of electromagnetic energy meters with tamper proof electronic meters, installation of capacitor banks and mobile service centers etc. In exceptional cases, where the sub-transmission system is weak, strengthening at 33 kV or 66 kV levels may also be considered.

3.0 Nodal Agency

The Power Finance Corporation (PFC) would be the 'Nodal Agency' for the operationalisation and implementation of the APDRP programme, under the overall guidance of the Ministry of Power (MoP). PFC will act as a single window service under APDRP and will coordinate with the main stakeholders involved such as MoP, APDRP Steering Committee, Central Electricity Authority (CEA), Financial Institutions, utilities and various Consultants. PFC would be expected to take the initiative for speedy and timely completion of projects and thus assist the Utilities in achieving loss reduction targets and other parameters of the scheme.

4.0 The modalities of formulating/ implementing projects under the programme are as under:

a) **Project Formulation:** The Utilities shall prepare Detailed Project Reports (DPRs) in two Parts (i.e. Part-A & Part-B) for each of the project areas and while forwarding the DPRs to the Nodal Agency indicate the order of priority of the projects. Utilities may appoint IT Consultants through bidding from an open bidding process from the panel of IT Consultants prepared by the Nodal Agency for preparing DPRs of Part-A projects. IT consultants shall be empanelled by the Nodal Agency / MoP after observing codal formalities. Utilities may also prepare DPRs for Part-A on their own in case they feel that they have the skill and expertise to do so. Hiring charges of the IT Consultant may be included in the project cost of Part-A only if an IT Consultant is appointed from the panel prepared by the Nodal Agency and same is appointed through competitive bidding. DPRs for Part-A shall be submitted by utilities along with an undertaking indicating that the DPR is duly vetted either by the IT Consultant so appointed or else by the utility itself. These DPRs shall be submitted to PFC, the Nodal Agency. These DPRs will be validated and appraised techno-commercially by PFC and will

then be submitted to the APDRP Steering Committee for approval. Further guidelines as required for formulation of projects would be issued by Ministry of Power from time to time.

b) **Implementation**: SEBs / State Utilities shall implement projects sanctioned under this programme on a turnkey basis by appointing the **IT implementing agency** through a bidding process only from the Panel of **IT Implementing Agencies** notified by the Nodal Agency to ensure quality and expeditious implementation. IT implementing agencies shall be empanelled by the Nodal Agency / MoP after observing codal formalities. Further guidelines as required for implementation of projects would be issued by Ministry of Power from time to time.

c) **Quadripartite Agreement**: A Quadripartite Agreement will be entered into between SEBs / Utilities, GoI, PFC and the State Government to implement the re-structured APDRP. Signing of Quadripartite Agreement is a prerequisite for release of funds under the re-structured APDRP. The Ministry of Power / PFC will monitor implementation of the precedent conditions agreed to in the Quadripartite Agreement before releasing funds. If considered necessary, Ministry of Power may impose such conditionalities as it deems fit for the implementation of re-structured APDRP from time to time.

5.0 Project Funding Mechanism

5.1 **Part-A**: Initially 100% funds for the approved projects shall be provided in the form of a loan from the Government of India on such terms as decided by the Ministry of Finance. The applicable rate of interest and other Terms and Conditions will be as notified by GoI from time to time. The loan along with interest thereon shall be converted into a grant once the establishment of the required system is achieved and verified by an independent agency appointed by the Ministry of Power (MoP) through the Nodal Agency. No conversion to grant will be made in case projects are not completed within 3 years from the date of sanctioning of the project. In such cases the concerned utility will have to bear the full loan and interest repayment. The project will be deemed to be completed on the establishment of the required system duly verified by an independent agency appointed by the Ministry of Power (MoP) through the Nodal Agency.

5.2 **Part-B**: Initially upto 25% funds for the projects shall be provided as a loan from the Government of India on such terms decided by the Ministry of Finance. The applicable rate of interest and other Terms and Conditions will be as notified by GoI from time to time. The balance funds for Part B projects shall be raised from Financial Institutions (FIs), namely PFC/REC / multi-lateral institutions and/ or own resources. The loan from the FIs will be governed by the respective terms of the FIs. For Special Category States (all North-Eastern States, Sikkim, Uttarakhand, Himachal Pradesh and Jammu & Kashmir), GOI loan for Part B projects will be upto 90%. All other conditions / methodology applicable to non-special category states shall also be applicable to the special category states. The project-wise requirement of Gross Budgetary Support (GBS) will be decided by the Steering Committee. If the Distribution Utilities

achieve the target of 15% AT&C loss on a sustained basis for a period of 5 years in the project area and the project is completed within the time schedule fixed by the Steering Committee, which shall in no case exceed five years from the date of project approval, upto 50% (90% for Special Category States) loan against Part-B projects will be convertible into a grant in equal tranches, every year for 5 years starting one year after the year in which the base-line data system (Part A) of project area concerned is established and verified by the independent agency appointed by MoP through the Nodal Agency. If the utility fails to achieve or sustain the 15% AT&C loss target in a particular year, that year's tranche of conversion of loan to grant will be reduced in proportion to the shortfall in achieving 15% Aggregate Technical & Commercial (AT&C) loss target from the starting base-line assessed figure. The loan from GOI shall be the first converted into grant. Loans from FIs shall be converted into grant only after the conversion of full GOI loan into grant. Whenever the loan from GoI / FIs will be converted into grant, interest and other charges paid on the converted amount will also be treated as grant and reimbursed to the Utility. For the loan and interest which could not be converted into grant on account of not meeting the conditions of conversion, the utility / state will have to bear the balance burden of loan and interest repayment. Illustration is given through a typical example at **Annex**.

5.3 The sanction process and other formalities for execution of Part-A and Part-B projects can be taken up simultaneously except Part-B activities are likely to start 3-6 months after the start of Part-A for making arrangements of ring fencing of the project area and verification of the starting figure of AT&C loss of the project area by an independent agency appointed by the MoP through the Nodal Agency with three billing cycle data. This may not be necessary where ring fencing of the project area has already been done by the State Utilities except for the time required for verification of the starting figure of AT&C loss of the project area. This would help the utilities to reduce the over all project execution cycle.

5.4 The following table clarifies the funding modalities.

Category of States	**% of Project Cost as loan through GBS from GOI**	**% of Project Cost as loan from PFC/REC/ Own/ Other Sources**	**Remarks**
Part-A Projects			
All States	100	-	Entire loan shall be converted into grant on completion of project duly verified by Independent Agency appointed by MoP / Nodal Agency
Part-B Projects			
Non-special Category	Upto 25	Upto 75	Upto 50% (90% for special category states) loan shall be converted into grant in five

States			annual tranches on achieving 15% AT&C loss in the project area. Illustration of loan conversion through Typical example is indicated at **Annex.**
Special Category States	Upto 90	Upto 10	

6.0 Release/ Disbursement of funds

The release / disbursement of funds and detailed terms and condition governing conversion of loan into grant shall be notified separately.

7.0 Third party evaluation

7.1 Ministry of Power shall appoint Third Party Independent Agencies through the Nodal Agency. The Third Party Independent Evaluating Agencies (TPIEAs) shall be appointed for following verification:

(a) **Base (starting) figure of AT&C loss of the project area**: The state power utility / distribution Company shall ring fence each identified project area at the beginning of the programme. Three billing cycle data of energy inflow and outflow and corresponding revenue collected for the project area shall be furnished to the Independent Agency for verifying the base (starting) figure of AT&C loss of the project area. Part B projects will be taken up after verification of initial AT&C loss by Ministry of Power (MoP) through nodal agency.

(b) The establishment of Base line Data System (i.e. completion of Part-A projects).

(c) Yearly AT&C loss figures of project areas and State Power Utilities / Distribution Companies.

8.0 Incentive Scheme for Utility Staff

8.1 The scheme also envisages the provision of incentives for the utility staff in towns where AT&C loss levels are brought below 15%. Each distribution company shall be required to implement an incentive programme for utility employees of the specific project area. Details of the incentive scheme and the milestones/achievements that trigger incentive payments shall be agreed to in the project proposals presented by each utility. A maximum amount equivalent to 2% of the annual grant converted for Part-B project will be allocated for this purpose additionally. The utility is expected to match these funds and disburse the total amount among its employees according to a suitably devised incentive scheme. A model scheme will be formulated by the Ministry of Power, on basis of which each utility must submit a duly approved incentive scheme for approval of the Steering Committee in the MoP prior to seeking disbursements under Part-B.

8.2 State governments and distribution companies will work with the concerned regulator to ensure that a part of the financial benefits arising out of the AT&C loss reduction are also passed on to the consumers of the project area.

9.0 Eligibility Criteria for APDRP assistance

9.1 The States / Utilities will be required to:

a) Constitute the State Electricity Regulatory Commission.

b) Achieve the following target of AT&C loss reduction at the entire utility level every year starting one year after the year in which first project of Part-A is completed :

Utilities having AT&C loss above 30%: Reduction by 3% per year

Utilities having AT&C loss below 30%: Reduction by 1.5% per year

c) commit a time frame for introduction of measures for better accountability at all levels in the project area;

d) submit previous year's (as of 31st March) AT&C loss figures of identified project area as verified by an independent agency appointed by Ministry of Power (MoP) / Nodal Agency by 30th June annually;

e) the TPIEA would initially verify the input energy and corresponding cash collected for calculating AT&C losses. The same shall be carried out at least for three billing cycles and got verified by the independent agency. This initial loss level will be the **Baseline** for considering conversion of loan into grant for Part B projects. The following are prerequisite to compute initial loss level and start Part-B schemes:

i. All input points are identified and metered with downloadable meters for energy inflow accounting in scheme area.

ii. All outgoing feeders are to be metered in substation with downloadable meters.

iii. Scheme area should be ring fenced i.e. export and import meters for energy accounting shall be ensured.

iv. Arrangement for measuring total energy flow in the rural load portion of the project area by ring fencing, if the rural load feeder is not segregated.

f) devise a suitable incentive scheme for staff linking to achievements of 15% AT&C loss in the project area.

10.0 Approval and Monitoring Mechanism

10.1 A Steering Committee under Secretary (Power) comprising of representatives of Ministry of Finance, Planning Commission, Central Electricity Authority, Power Finance Corporation, Rural Electrification Corporation, selected State Governments (on one year rotation basis) and of Ministry of Power will be continued as earlier. The Steering Committee will meet on 1st

Monday of every month or Tuesday (if Monday is a holiday) for first six months of its constitution and later as and when required. The Steering Committee will –

(a) Sanction projects, including modification or revision of estimates; Monitor and review the implementation of the Scheme;
(b) Approve panel of IT Consultant and IT Implementation Agencies
(c) Approve the guidelines for operationalisation of various components of the scheme including mechanism for payment of fees to nodal agency;
(d) Approve TPIE Agencies for verification and validation of base-line data systems, for verifying the fulfilment of programme conditions by utilities;
(e) Approve conversion of loan into grant upon fulfilment of the necessary conditions;

10.2 **Distribution Reforms Committee (DRC) at the State level** under the Chairmanship of the Chief Secretary/Principal Secretary/Secretary Power/Energy constituted by the State will continue to monitor the Scheme at the State level. These DRCs have been setup under the Memorandum of Agreement signed by the States for implementation of the X plan APDRP. DRC will –

a) Recommend the project proposals of the distribution companies to the Ministry of Power after ensuring that all the required formalities have been complied with;
b) Monitor the compliance to conditionalities;
c) Monitor the achievement of milestones and targets under the Scheme.

11.0 **APDRP Assistance to Private Distribution Companies**

The assistance under APDRP would not be applicable for private distribution companies. The participation of the private utilities in APDRP will be considered after a period of two years from 31.07.2008.

12.0 Implementation of the re-structured APDRP shall be through web interface. The design, hoisting and maintenance during the full implementation cycle of the scheme of the web portal shall be the responsibility of the Nodal Agency.

13.0 **General terms and conditions for utilization of funds**

a) The funds under the programme will be provided to the State Power Utility/ Distribution Company through PFC, the nodal agency. Budget provision for the funds shall be made annually.

b) State Power Utility / Distribution Company receiving APDRP assistance will have to open a separate account/ sub-account head immediately, for separate accounting classification, both on the receipt and expenditure side for enabling proper audit certification including escrow account in the bank.

c) The reduction of T&D losses as part of overall AT&C losses would also enable the Utilities to claim carbon credits for avoiding power generation (reducing CO_2 emission) under CDM mechanism subject to necessary

approvals. The state utilities will be encouraged to take advantage of CDM benefits for reducing the cost of the scheme and making it financially viable. A cell for facilitating the same shall be created in the Nodal Agency.

d) The loan under the programme through GBS from GOI shall be subject to the Terms and Conditions laid down by the Ministry of Finance/ GoI at the time of release.

e) Funds provided to the State Power Utility / Distribution Company under APDRP cannot be diverted to any other scheme or used for any other purpose.

f) The State Governments/ State Power Utilities would be required to submit to PFC/MoP monthly progress report in respect of progress of execution of project, fund utilization, etc.

14. These guidelines are issued with the approval of Steering Committee accorded in its meeting held on 18.12.2008.

Annexure VI-B

Standard technical specification for 3-phase 4 wire CT/PT operated fully static AMR compatible tri-vector energy Meters for area ring fencing, substation feeders, distribution transformers & HT consumers prepared for R-APDRP projects

STANDARD

TECHNICAL SPECIFCATION

FOR

3PHASE 4 WIRE CT/PT OPERATED FULLY STATIC
AMR COMPATIBLE TRI-VECTOR ENERGY METERS

FOR

AREA RING FENCING, SUBSTATION FEEDERS, DISTRIBUTION TRANSFORMERS & HT CONSUMERS

Prepared for

R-APDRP PROJECTS

1.0 SCOPE

Design, manufacturing, testing, supply and delivery of AC, 3 Phase, 4 Wire, CT/PT operated fully Static and AMR compatible Tri-Vector Energy Meters for measurement of different electrical parameters listed elsewhere in the document including Active Energy (KWH), Reactive Energy (KVARH), Apparent Energy (KVAH) etc. The detail scope is given below.

2.0 APPLICATION

a) As Boundary Meters for Ring fencing of an Area,
b) In Substation on incoming/Outgoing HT feeders,
c) On Distribution Transformers
d) HT Consumers

3.0 STANDARDS TO WHICH METERS SHALL COMPLY

Guidelines on "Data Exchange for Electricity Meter Reading, Tariff and Load Control – Companion Specification" enclosed with this document as annexure.

IS: 14697 /1999 (reaffirmed 2004) Specification for AC Static Transformer operated Watt Hour & VAR-Hour meters (class 0.5S);

IS-15707 Specification for Testing, evaluation, installation & maintenance of AC Electricity Meters-Code of Practice

The equipment meeting with the requirements of other authoritative standards, which ensure equal or better quality than the standard mentioned above, also shall be considered; In case of conflict related with communication protocol, the Guidelines on "Data Exchange for Electricity Meter Reading, Tariff and Load Control – Companion Specification" enclosed with this document as annexure shall prevail upon. For conflict related with other parts of the specification, the order of priority shall be – i) This technical specification ii) IS: 14697 /1999 (reaffirmed 2004).

4.0 GENERAL TECHNICAL REQUIREMENTS

1	TYPE	AMR Compatible Static, 3 Ph, 4 Wire Tri-Vector Energy Meter (Export/Import type for Boundary/ring fencing/Interface meters)
2	FREQUENCY	50 Hz ±5%
3	ACCURACY CLASS	0.5S
4	SECONDARY VOLTAGE	Suitable for operation from 110V Ph-Ph or 63.5V Ph-N
5	BASIC CURRENT (Ib)	-/1 Amps or -/5 Amps. as per existing CT for -feeders
6	MAXIMUM CONTINUOUS CURRENT	2.0 Ib; Starting and Short time current shall be as per IS-14697
7	POWER CONSUMPTION	i) The active and apparent power consumption, in each voltage

		circuit, at reference voltage, reference temperature and reference frequency shall not exceed 1. 5 W and 8 VA. ii) The apparent power taken by each current circuit, at basic current, reference frequency and reference temperature shall not exceed 1.0 VA
8	POWER FACTOR	0.0 Lag -Unity- 0.0 Lead
9	DESIGN	Meter shall be designed with application specific integrated circuit (ASIC) or micro controller; shall have no moving part; electronic components shall be assembled on printed circuit board using surface mounting technology; factory calibration using high accuracy (0.05 class) software based test bench.

5.0 CONSTRUCTIONAL REQUIREMENT/ METER COVER & SEALING ARRANGEMENT

The utilities may add their specific sealing requirements and meter COVER constructions required. Wherever poly carbonate cover is specified, it shall conform to IS 11731 (FH-1category) besides meeting the test requirement of heat deflection test as per ISO 75, glow wire test as per the IS:11000 (part 2/SEC-1) 1984 OR IEC PUB,60695-2-12, Ball pressure test as per IEC--60695-10-2 and Flammability Test As per UL 94 or As per IS 11731(Part-2) 1986

6.0 WORKING ENVIRONMENT

As per IS 14697-1999 (reaffirmed 2004). Meter to perform satisfactorily under Non-Air Conditioned environment (within stipulations of IS)

Meter body will conform to IP51 degree of protection. For outdoor use meter shall be installed in sealed enclosure conforming to IP 55.

The meter shall be suitable designed for satisfactory operation under the hot and hazardous tropical climate conditions and shall be dust and vermin proof. All the parts and surface, which are subject to corrosion, shall either be made of such material or shall be provided with such protective finish, which provided suitable protection to them from any injurious effect of excessive humidity.

7.0 MANUFACTURING PROCESS, ASSEMBLY AND TESTING

Meters shall be manufactured using latest and 'state of the art' technology and methods prevalent in electronics industry. The meter shall be made from high accuracy and reliable surface mount technology (SMT) components. All inward flow of major components and sub assembly parts (CT, PT, RTCs/Crystal, LCDs, LEDs, power circuit electronic components etc.) shall have batch and source identification. Multilayer 'PCB' assembly with 'PTH' (Plated through Hole) using surface mounted component shall have adequate track clearance for power circuits. SMT component shall be assembled using automatic 'pick-and-place' machines, Reflow Soldering oven, for stabilized setting of the components on 'PCB'. For soldered PCBs, cleaning and washing of cards, after wave soldering process is to be carried out as a standard practice. Assembly line of the manufacturing system shall have provision for testing of sub-assembled cards. Manual placing of components and soldering, to be

minimized to items, which cannot be handled by automatic machine. Handling of 'PCB' with ICs/C-MOS components, to be restricted to bare minimum and precautions to prevent 'ESD' failure to be provided. Complete assembled and soldered PCB should undergo functional testing using computerized Automatic Test Equipment.

Fully assembled and finished meter shall undergo 'burn-in' test process for 12 hrs at 55 degree Celsius (Max. temperature not to exceed 60 degree Celsius) under base current (Ib) load condition.

Test points should be provided to check the performance of each block/stage of the meter circuitry. RTC shall be synchronized with NPL time at the time of manufacture. Meters testing at intermediate and final stage shall be carried out with testing instruments, duly calibrated with reference standard, with traceability of source and date.

8.0 DISPLAYS

The meter shall have 7 digits (with ±indication), parameter identifier, backlit Liquid Crystal Display (LCD) of minimum 10 mm height, wide viewing angle. Auto display cycling push button required with persistence time of 10 Seconds. LCD shall be suitable for temperature withstand of 70 deg C; Sequence of display of various instantaneous electrical parameters shall be as desired by Purchaser at the time of order.

The data stored in the meters shall not be lost in the event of power failure. The meter shall have Non Volatile Memory (NVM), which does not need any battery backup. The NVM shall have a minimum retention period of 10 years.

9.0 PERFORMANCE UNDER INFLUENCE QUANTITIES

The meters performance under influence quantities shall be governed by IS 14697-1999 (reaffirmed 2004). The accuracy of meter shall not exceed the permissible limits of accuracy as per standard IS: 14697 (latest version).

10.0 OUTPUT DEVICE

Energy Meter shall have test output, accessible from the front, and be capable of being monitored with suitable testing equipment while in operation at site. The operation indicator must be visible from the front and test output device shall be provided in the form of LED. Resolution of the test output device shall be sufficient to enable the starting current test in less than 10 minutes.

11.0 REAL TIME INTERNAL CLOCK (RTC)

RTC shall be pre-programmed for 30 Years Day/date without any necessity for correction. The maximum drift shall not exceed +/- 300 Seconds per year.

The clock day/date setting and synchronization shall only be possible through password/Key code command from one of the following:

a) Hand Held Unit (HHU) or Meter testing work bench and this shall need password enabling for meter;

b) From remote server through suitable communication network or Sub-station data logger 'PC'.

12.0 QUANTITIES TO BE MEASURED & DISPLAYED

The meter shall be capable of measuring and displaying the following electrical quantities within specified accuracy limits for polyphase balanced or unbalanced loads:

a) Instantaneous Parameters such as phase and line voltages, currents, power factors, overall kVA, kW, kVAr, power factor, frequency etc as per details given in the table below and enclosed annexure.

b) Block Load Profile Parameters such as kVAh/kWh/kVArh (lag/lead)/Maximum Demand (MD) in kW/kVA/power factor/phase and line voltages/currents etc (minimum 5 parameters) as per details given in the table below and enclosed annexure.

c) Daily Load Profile Parameters such as cumulative energy kWh (import/export)/cumulative kVAh (while kW- import/export)/cumulative energy kVArh (quadrant-1/2/3/4)/reactive energy high (V>103%)/low (V<97%), etc as per details given in the table below and enclosed annexure.

In addition to above the meter shall also record the Name plate details, programmable parameters (readable as profile), occurrence and restoration of tamper events along with the parameters (Table A5.1, A5.2 and A6.1 to A6.8 respectively of enclosed guideline document)

Detail of category wise parameters requirement suitable for specific location such as feeder/DT metering, interface points/boundary points is given in following tables of guidelines document enclosed as annexure:

Category	Parameter group	Annexure Table No.
Substation Feeder/ Distribution Transformer meter	Instantaneous parameters	A2.1
	Block Load Profile parameters	A2.2
Boundary/Ring fencing/Interface Meters	Instantaneous parameters	A3.1
	Block Load Profile parameters	A3.2
	Daily Load Profile parameters	A3.3
HT Consumer Meters	Instantaneous parameters	A4.1
	Block Load Profile parameters	A4.2
	Billing Profile parameters	A4.3
Substation Feeder/ Distribution Transformer/Boundary/Ring fencing/Interface/HT Consumer Meters	Name Plate details	A5.1
	Programmable Parameters	A5.2
	Event Conditions	A6.1 to A6.7
Logging parameters for each of the event condition – shall be selected	Capture parameters for event as applicable (Event Log Profile)	A6.8

13.0 DEMAND INTEGRATION PERIOD

The maximum demand integration period may be set at 15 minute or 30 minute by purchaser as per requirement.

14.0 MD RESET

It should be possible to reset MD by the following options:

a) Communication driven reset
b) Local push button
c) Auto reset at 24:00 hrs at the end of each billing cycle

15.0 MARKING OF METERS

The marking of meters shall be in accordance with IS: 14697 /1999 (reaffirmed 2004). The meters shall bear marking "Purchased under R-APDRP scheme".

The meter shall also store name plate details as given in the table A5.1 of annexure. These shall be readable as a profile as and when required.

16.0 COMMUNICATION CAPABILITY

The meter shall be provided with two ports for communication of the measured/collected data as per guideline document enclosed in the annexure, i.e. a hardware port compatible with RS 232 or RS 485 specifications which shall be used for remote access through suitable Modem (GPRS/GSM/EDGE/CDMA/PSTN/LPR) and an Optical port complying with hardware specifications detailed in IEC-62056-21. This shall be used for local data downloading through a DLMS compliant HHU.

The RS 485 port shall be used at Substations suitable for multi-drop connections of the meter for exporting data to sub-station data logger/DCU/Computer and the remote end server. The RS 232 port shall be used at boundary points meters and Distribution Transformer meters capable to transfer and export data to the remote end server through suitable communication mediums (GPRS/GSM/EDGE/CDMA/ PSTN/LPR). Both ports shall support the default and minimum baud rate of 9600 bps.

17.0 HAND HELD UNIT (HHU)

To enable local reading of meters data a DLMS compliant HHU shall be used. The HHU shall be as per specification given in the enclosed guidelines document. It shall be compatible to the DLMS compliant energy meters that are to be procured/supplied on the basis of this specification. The HHU shall be supplied by the meter manufacturer along with the meter. Numbers of HHU to be procured shall be decided by the purchaser.

18.0 TAMPER & FRAUD MONITORING FEATURES

The meter shall work satisfactorily under presence of various influencing conditions like External Magnetic Field, Electromagnetic Field, Radio Frequency Interference, harmonic Distortion, Voltage/Frequency Fluctuations, and electromagnetic High Frequency Fields etc. The meter shall be immune to abnormal voltage/frequency generating devices and shall record the occurrence and

restoration of such tamper events along with parameters such as current, voltages, kWh, power factor, event code, date & time etc. (listed in Table A6.1 to A6.7 in enclosed document).

Tamper details shall be stored in internal memory for retrieval by authorized personnel through either of the following:

i) HHU.

ii) Remote access through suitable communication network.

Minimum 200 numbers of events (occurrences & restoration with date & time) should be available in the meter memory.

19.0 TYPE TESTS

The meter offered should have successfully passed all type tests described in the IS 14697 and the meter Data Transfer and Communication capability as per enclosed guidelines document. Type test certificate shall be submitted along with the offer and the same shall not be more than 36 months old at the time of bid submission. Make & type of major components used in the type-tested meter shall be indicated in the QAP. *The condition are to be relaxed by the purchasers (utilities) for the bids to be issued in next six months (i.e. upto Feb 2010) to accommodate design, development and testing of the new standard meters, conforming to the guidelines document enclosed as annexure, by manufacturers. The bidder shall have to submit the required type test certificate (as per bid requirement) to the purchaser (utility) at the time of meters delivery.*

Further Purchaser shall reserve the right to pick up energy meters at random from the lots offered and get the meter tested at third party lab i.e. CPRI / agencies listed at Appendix-C of Latest – standardization of AC static electrical energy meters – CBIP publication NO.-304/ NPL / CQAL/ ERTL / ERDA at the sole discretion of the Purchaser. The supplier has no right to contest the test results of the third party lab or for additional test and has to replace/take corrective action at the cost of the supplier.

It shall be the responsibility of the supplier to arrange such tests and Purchaser shall be informed of the date and time of conduction of tests well in advance to enable him to witness such tests. Test charges of the testing authority, for such successful repeat type tests, shall be reimbursed at actual by the Purchaser.

20.0 ACCEPTANCE & ROUTINE TESTS

Criteria for selection for such tests and performance requirements shall be as per IS 14697-1999 (reaffirmed 2004)

Additional acceptance shall include Surge withstand (SWC) for 6 kV_p as per IEC 62052-11, Lightning impulse test and HF disturbance test as per IS 14697. One sample meter per order from one of the offered lot shall be subjected to these specific tests. Meters subjected to these tests shall not be used after tests.

Accuracy tests shall be performed at the beginning and at the end of the acceptance tests specified.

21.0 QUALITY ASSURANCE:

The manufacturer shall have a comprehensive quality assurance program at all stages of manufacture for ensuring products giving reliable, trouble free performance. Details of the bidder's quality assurance and test set up shall be furnished with the bid. A detailed quality assurance program shall be finalized with the successful bidder during the award stage. Bidder shall furnish following information along with his bid:

i) Organization structure of the manufacturer and his main sub-suppliers (PCBs, SMT cards, CT/PT) with details of 'QA' setup, overall workflow;

ii) Copy of system manual showing 'QAP' (Quality Assurance Plan) as actually practiced during manufacturing and final testing.

iii) List of raw materials and critical components (ASIC chip, crystal clock, memory register Chip, transformers, optical ports etc.) with their suppliers;

iv) Stage inspection of product before final testing;

v) Procedure adopted for 'In-situ' testing of PCBs, after placement of surface mounted component, for quantitative parametric variation of tolerance by self or sub-contractor.

vi) Testing and calibration facility, date of calibration of test bench, manpower data of bench operators;

vii) Sample copies of test certificate of bought out components.

22.0 QUALIFYING REQUIREMENTS

i) Bidder should be a manufacturer;

ii) He should have all the facility in his works for design, assembly, quality assurance, burn-in test (Fully assembled Energy Meter), testing (all routine and acceptance tests), automatic calibration of Energy Meter on software based test bench, qualified team of technical and software engineers;

iii) The average annual turnover of the manufacturer for Energy meters for the three (3) best financial years out of last five (5) years, should be at least Rs.** ..... Lakhs.
(** Is 2 x Package Cost x 12/ Work completion schedule in Months)

iv) Notwithstanding anything stated herein under, the Purchaser reserves the right to assess the capacity and capability of the bidder to execute the work, should the circumstances warrant such assessment in the overall interest of the Purchaser.

23.0 GUARANTEE

Equipment (Meter) supplied shall be guaranteed for a period of 66 months from the date of supply or 60 months from the date of installation, whichever ends later. Bidders shall guarantee to repair or replace the meters and meter boxes (if supplied), which are found to be defective/ inoperative at the time of installation, or become inoperative/ defective during guarantee period. Replacements shall be effected within 1 month from the date of intimation.

The bidder shall extend the guarantee of 5 years. However the backup bank guarantee provided by the bidders shall be valid for 2 years only.

24.0 FIXING & CONNECTION ARRANGEMENT

Manufacturer shall ensure following technical points:

i) Meter shall be suitable for mounting on Simplex type vertical panel with front door; CAT-M4 disconnecting type TBs to be used for Current circuit; Panel wiring to be properly dressed and harnessed; External cables to enter panel from bottom gland plate using double compression glands.

ii) Meter installation & inter-connection from existing CT/PT connections to energy meters in the panel shall be in the scope of contractor/bidder. The external cabling from existing CT/PT to Energy Meter panel shall be in the scope of purchaser.

iii) Energy Meter terminals block shall be adequately sized with regard to maximum conductor dimension, commensurate with current rating of Energy Meter.

Application Guide for users of this specification

1. *The specification does not contain constructional details and methods of sealing of the meter COVER and the terminal sizes required for the Purchasers incomer cables. These may be added suitably as per the requirements of individual users. Quantities of meters required with / without meter COVER needs to be specified in the Bill of Quantities in the NIT specifications.*

2. *The NIT specification shall suitably incorporate the appropriate Qualifying Requirements considering the quantity of meters intended to be procured.*

Annexure VII

Govt. of Madhya Pradesh notification on Subsidy for Base Year

मध्यप्रदेश शासन
ऊर्जा विभाग
मंत्रालय

146
16/6/10

आदेश

भोपाल, दिनांक 16.06.2010

क्रमांक एफ 5–17/2010/तेरह : राज्य शासन एतद्द्वारा विद्युत अधिनियम 2003 की धारा 65 के अनुसार म.प्र. विद्युत नियामक आयोग द्वारा वर्ष 2010–11 के लिए दिनांक 18 मई 2010 को जारी टैरिफ आदेश द्वारा लागू विद्युत दरों में निम्नलिखित उपभोक्ता श्रेणियों को निम्नानुसार सब्सिडी प्रदान करता है:–

1. केवल 30 यूनिट तक के मासिक खपत वाले घरेलू उपभोक्ताओं को 90 पैसे प्रति यूनिट सब्सिडी दी जाए ।
2. 25 अश्वशक्ति तक संबद्ध भार वाले पावरलूम उपभोक्ताओं को 125 पैसे प्रति यूनिट सब्सिडी दी जाए एवं इन उपभोक्ताओं से वास्तविक खपत के आधार पर ही भुगतान लिया जाए।
3. निम्नदाब कृषि उपभोक्ताओं हेतु निम्नानुसार सब्सिडी प्रदान की जाए :–

(एल.वी.—5.1)

(1)	स्थायी संयोजन	मीटर युक्त	मीटर रहित
(अ)	प्रथम 300 यूनिट प्रतिमाह तक की खपत (प्रति यूनिट)	175 पैसे	175 पैसे
(ब)	301 से 500 यूनिट प्रतिमाह तक की खपत (प्रति यूनिट)	205 पैसे	205 पैसे
(स)	500यूनिट से ऊपर की खपत (प्रति यूनिट)	190पैसे	190 पैसे
(2)	अस्थायी संयोजन	190 पैसे प्रति यूनिट	
(3)	डी.टी.आर. मीटर द्वारा विद्युत प्रदाय	150 पैसे प्रति यूनिट	

4. नगरपालिका एवं नगर पंचायत की निम्नदाब सड़कबत्ती योजनाओं हेतु मासिक फिक्स्ड चार्ज पर रु. 95 प्रति किलोवाट की सब्सिडी दी जाए।
5. उच्च दाब सिंचाई उपभोक्ताओं को वार्षिक न्यूनतम प्रभार के भुगतान से छूट प्रदान की जाए ।

उल्लेखित सभी श्रेणी के उपभोक्ताओं को अनुदान दिनांक 1.4.2010 से 31.5.2010 तक की अवधि हेतु पूर्व वर्ष की लागू टैरिफ दरों एवं दिनांक 1.6.2010 से 31.03.2011 तक आयोग द्वारा दिनांक 18.5.2010 को जारी टैरिफ आदेश से लागू दरों पर लागू किया जाए। उल्लेखित श्रेणी के उपभोक्ताओं को नियामक आयोग द्वारा निर्धारित दरों तथा उपरोक्त दर्शाई गई दरों के अंतर की प्रतिपूर्ति म.प्र.राज्य विद्युत मण्डल /विद्युत वितरण कंपनियों को टैरिफ सब्सिडी मद में म.प्र.विद्युत नियामक आयोग द्वारा निर्धारित प्रक्रिया अनुसार की जाए। म.प्र.विद्युत नियामक आयोग द्वारा जारी टैरिफ आदेश के द्वारा अमीटरीकृत कृषि उपभोक्ताओं हेतु निर्धारित की गयी खपत के अनुसार गणना कर उपरोक्तानुसार सब्सिडी प्रदान की जावे।

मध्यप्रदेश के राज्यपाल के नाम से
तथा आदेशानुसार

(आर.के.अटारे)
अपर सचिव
म.प्र.शासन,ऊर्जा विभाग

पृष्ठांकन क्रमांक एफ 5–17/2010/तेरह भोपाल, दिनांक 16.06.2010

प्रतिलिपि–

1. प्रमुख सचिव, मध्यप्रदेश शासन, वित्त विभाग, मंत्रालय भोपाल।
2. उद्योग आयुक्त, उद्योग संचालनालय, विंध्याचल भवन, भोपाल।
3. वित्तीय सलाहकार, म.प्र. राज्य विद्युत मंडल, जबलपुर ।
4. अध्यक्ष एवं प्रबंध संचालक म.प्र. पूर्व/मध्य/पश्चिम क्षेत्र विद्युत वितरण कंपनी लिमि. जबलपुर/भोपाल/इंदौर – राज्य शासन के उपरोक्त आदेशानुसार उल्लेखित उपभोक्ता श्रेणियों की बिलिंग करने हेतु।
5. प्रबंध संचालक, एम.पी. पावर ट्रेडिंग कंपनी लिमि., जबलपुर।
6. सचिव, म.प्र. राज्य विद्युत मंडल, जबलपुर – राज्य शासन के उपरोक्त आदेशानुसार उल्लेखित उपभोक्ता श्रेणियों की बिलिंग करने हेतु।
7. आयोग सचिव, म.प्र. विद्युत नियामक आयोग, मेट्रो प्लाजा, बिट्टन मार्केट भोपाल।

अपर सचिव
म.प्र.शासन,ऊर्जा विभाग

Annexure VIII

List of O&M spares provided by the Distribution Licensee to the Distribution Franchisee free of cost for the operation and maintenance of the Distribution System in the Franchisee Area

Requirement of materials for maintenance for one month for the Ujjain District.

S.No.	Material	Unit	Division wise quantity of materials							
			Ujjain (O&M)	CITY WEST	CITY EAST	MAHDIPUR	TARANA	NAGDA	BARNAGAR	Total
1	Disc Insulator	Nos.	30	42	43	33	34	36	38	256
2	33kv Pin Insulator	Nos.	20	11	11	11	11	24	25	113
3	33kv GI pin	Nos.	5	5	5	6	6	6	6	39
4	Conductor assorted size	Mtr	500	525	535	555	560	600	635	3910
5	kitkat 100 AMP	Nos.	250	210	214	222	224	300	318	1738
6	kitkat 200 AMP	Nos.	100	105	107	111	112	120	127	782
7	HRC Fuse 400 Amp	Nos.	100	105	107	111	112	120	127	782
8	Shackle Insulator 90X75 mm	Nos.	70	74	75	78	78	84	89	548
9	G.I. Wire 10SWG	Kg.	150	158	161	167	168	180	191	1175
10	PVC Tape Roll	Nos.	40	42	43	44	45	48	51	313
11	P.G. Clamp	Nos.	50	53	54	56	56	60	64	393
12	Bimetallic Clamp	Nos.	100	105	107	111	112	120	127	782
13	Nuts & Bolts	Kg.	100	105	107	111	112	120	127	782
14	D O Fuse element asserted size	Nos.	150	158	161	167	168	180	191	1175
15	Hand Gloves	Nos.	30	32	32	33	34	36	38	235
16	LT robust Fuse Unit	Nos.	100	105	107	111	112	120	127	782
17	Silica Gel	Kg.	25	26	27	28	28	30	32	196
18	Discharge/Earthing Rod	Nos.	35	37	37	39	39	42	44	273
19	Alluminium Lugs 300 SQ mm	Nos.	200	210	214	222	224	240	254	1564
20	Alluminium Lugs 185/150 SQ mm	Nos.	750	788	803	555	560	900	953	5309
21	Poly propylene rope	Kg.	80	63	64	67	67	96	102	539
22	Bamboo Ladder	Nos.	50	53	54	56	56	60	64	393
23	TC fuse wire assorted size	Kg.	50	53	54	56	56	60	64	393
24	Hardware for schackle insulators 90X75	Nos.	100	105	107	111	112	120	127	782
25	11kv GI pin	Nos.	20	21	21	22	22	24	25	155
26	11 kv Pin insulator	Nos.	50	53	54	56	56	60	64	393
27	Temper proof meter box single phase	Nos.	500	420	428	444	448	600	635	3475
28	Temper proof meter box Three phase	Nos.	100	105	107	111	112	120	127	782
29	LT meter box	Nos.	10	11	11	11	11	12	13	79
30	HT meter box	Nos.	2	2	2	2	2	2	3	15
31	LT bushing rod 100 & 63 kva Xmer	Nos.	150	158	161	167	168	180	191	1175
32	LT bushing rod 200 kva Xmer	Nos.	50	53	54	56	56	60	64	393
33	LTCT 200/100/50-5A	Nos.	50	53	54	56	56	60	64	393

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Signature of Authorized signatory of the Distribution Licensee
Seal of the Distribution Licensee

……
Signature of Authorized signatory of the Distribution Franchisee
Seal of the Distribution Franchisee

Annexure IX

[Illustration: Performance Improvement Targets (Ref. Article 19.1)

If the Effective Date is 12th Dec'10, then the first assessment of AT&C Loss reduction shall be done on 31st Mar'12. In such a case the total AT&C Loss reduction target shall be the sum of AT&C Loss target for the period of 12th Dec'10 till 31st Mar'11 plus the AT&C Loss target for financial year 2011-12.

The AT&C Loss reduction target for the period from 12th Dec'10 till 31st Mar'11 shall be computed on pro rata basis as below:

$$\left\{\frac{No.of\ days\ from\ 12th\ Dec\ 2010\ till\ 31st\ Mar\ 2011}{No.of\ days\ in\ the\ financial\ year\ 2010-11}\right\}\times 4\%$$

$$=\left\{\frac{110}{365}\right\}\times 4\% = 1.21\%$$

Therefore, the total AT&C Loss reduction target till first assessment date (31st Mar'12) shall be (1.21% + 4%) = 5.21%

Note:

(i) It is assumed that the AT&C Loss level for the Base Year is more than 40%.

(ii) The above table is for purpose of illustration only and shall not be considered in any manner as to actual past performance or estimated future performance.]